FEDERAL REGISTER

VOLUME 14 NUMBER 4

Washington, Thursday, January 6, 1949

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 2—APPOINTMENT THROUGH THE COMPETITIVE SYSTEM

APPORTIONMENT

Effective December 31, 1948, § 2.110 (a) (2) (viii) is amended to read as follows:

§ 2.110 *Apportionment.* (a) * * * (2) * * *

(viii) Until June 30, 1949, positions of typist and positions of stenographer in Grades one, two and three of the clerical, administrative and fiscal service.

(R. S. 1753; sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] FRANCES PERKINS,
Acting President.

[F. R. Doc. 49-78; Filed, Jan. 5, 1949; 8:46 a. m.]

TITLE 8—ALIENS AND NATIONALITY

Chapter II—Office of Alien Property, Department of Justice

PART 511—BLOCKED ASSETS: REGULATIONS ISSUED ORIGINALLY BY THE TREASURY DEPARTMENT

INSTRUCTIONS FOR PREPARATION OF REPORTS OF PROPERTY SUBJECT TO UNITED STATES JURISDICTION

CROSS REFERENCE: For order revoking Public Circular No. 4C, codified as § 511.304c, see Title 31, *infra.*

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Serial SR-324-A]

LIMITED MECHANIC CERTIFICATE WITH PROPELLER OR AIRCRAFT APPLIANCE RATING

CONTINUANCE OF AUTHORIZATION

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 30th day of December 1948.

Part 52 of the Civil Air Regulations requires a repair station to have adequate personnel certificated as required by the Civil Air Regulations. This regulation necessitates the employment of an aircraft or aircraft engine mechanic by an approved repair agency, except as provided by Special Civil Air Regulation Serial Number SR-324, which authorizes the issuance of a limited mechanic certificate to an applicant who is employed and designated by either a manufacturer holding an appropriate production certificate or by the holder of a repair station certificate with a propeller or aircraft appliance rating. SR-324 expires December 31, 1948.

The purpose of this regulation is to continue the authorization for limited mechanic certificates for an additional six-month period within which time the Bureau of Safety Regulaton expects to complete a revision of Part 24. Termination of this regulation would impose an undue burden on propeller and aircraft appliance manufacturers and repair stations. Therefore, it is in the public interest to continue the issuance of limited mechanic certificates authorized by Special Civil Air Regulation Serial Number SR-324 for an additional six-month period.

For the reasons stated above, notice and public procedure hereon are unnecessary. Since this amendment imposes no additional burden on any person, it may be made effective without prior notice.

The Civil Aeronautics Board hereby amends Special Civil Air Regulation Serial Number SR-324, effective January 1, 1949, by striking the words "December 31, 1948" and substituting in lieu thereof the words "June 30, 1949."

(Secs. 205 (a), 601, 602, 607, 52 Stat. 984, 1007, 1008, 1011; 49 U. S. C. 425 (a), 551-557)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 49-85; Filed, Jan. 5, 1949; 8:49 a. m.]

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FEDERAL REGISTER

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PART 420—MULTIPLE CROP INSURANCE

SUBPART—REGULATIONS FOR ANNUAL CONTRACTS COVERING THE 1949 CROP YEAR (MONETARY COVERAGE INSURANCE)

Correction

In Federal Register Document 48-11333, appearing at page 8580 of the issue for Wednesday, December 29, 1948, paragraph 9 of the policy in § 420.15 should be corrected by changing the word "plan" in the sixth line to read "plant".

Chapter VII—Production and Marketing Administration (Agricultural Adjustment), Department of Agriculture

PART 725—BURLEY AND FLUE-CURED TOBACCO

APPORTIONMENT OF NATIONAL MARKETING QUOTA FOR BURLEY TOBACCO FOR 1949-50 MARKETING YEAR

§ 725.8 *Basis and purpose.* The purpose of this proclamation is to apportion among the several States the national marketing quota for Burley tobacco for the 1949-50 marketing year proclaimed on November 30, 1948, and published in the FEDERAL REGISTER (13 F. R. 7343), in accordance with the provisions of section 313 (a) of the Agricultural Adjustment Act of 1938, as amended. Prior to the apportionment of such quota among the several States, public notice of the proposed action was given (13 F. R. 7502) in accordance with the Administrative Procedure Act (60 Stat. 237). The views and recommendations of Burley tobacco growers and other interested persons have been duly considered within the limits prescribed by the Agricultural Adjustment Act of 1938, as amended.

§ 725.9 *Apportionment of the national marketing quota for Burley tobacco for the 1949-50 marketing year among the several States.* The national marketing quota proclaimed in § 725.7 is hereby apportioned among the several States pursuant to section 313 (a) of the Agricultural Adjustment Act of 1938, as amended, and converted into State acreage allotments in accordance with section 313 (g) of said act, as follows:

State:	Acreage allotment
Alabama	80
Arkansas	67
Georgia	83
Illinois	26
Indiana	11,380
Kansas	321
Kentucky	309,061
Missouri	5,694
North Carolina	11,879
Ohio	11,925
Oklahoma	5
Pennsylvania	2
South Carolina	12
Tennessee	84,451
Virginia	13,936
West Virginia	3,762
Reserve [1]	2,230

[1] Acreage reserved for establishing allotments for farms upon which no Burley tobacco has been grown during the past five years.

(52 Stat. 46, 47, 202; 53 Stat. 1261; 7 U. S. C. 1312 (a), 1313 (a), (c), (g))

Done at Washington, D. C., this 3d day of January 1949. Witness my hand and the seal of the Department of Agriculture.

[SEAL] A. J. LOVELAND,
Acting Secretary of Agriculture.

[F. R. Doc. 49-80; Filed, Jan. 5, 1949; 8:50 a. m.]

PART 726—FIRE-CURED AND DARK AIR-CURED TOBACCO

PROCLAMATION OF RESULTS OF FIRE-CURED AND DARK AIR-CURED TOBACCO MARKETING QUOTA REFERENDA FOR THREE MARKETING YEARS BEGINNING OCTOBER 1, 1949

Sec.
726.6 Basis and purpose.
726.7 Proclamation of results of the fire-cured tobacco marketing quota referendum for the marketing year beginning October 1, 1949, and for the three-year period beginning October 1, 1949.
726.8 Proclamation of results of the dark air-cured tobacco marketing quota referendum for the marketing year beginning October 1, 1949, and for the three-year period beginning October 1, 1949.

AUTHORITY: §§ 726.6 to 726.8 issued under 52 Stat. 46, 54 Stat. 392; 7 U. S. C. 1312 (b).

§ 726.6 *Basis and purpose.* This document is issued to announce the results of the fire-cured and dark air-cured tobacco marketing quota referenda for the marketing year beginning October 1, 1949, and for the three-year period beginning October 1, 1949. Under the provisions of the Agricultural Adjustment Act of 1938, as amended, the Secretary proclaimed marketing quotas for fire-cured and for dark air-cured tobacco for the 1949-50 marketing year (13 F. R. 6704). The Secretary announced (13 F. R. 6708) that referenda would be held on November 27, 1948, to determine whether fire-cured and dark air-cured tobacco producers were in favor of or opposed to marketing quotas for the marketing year beginning October 1, 1949, and to determine whether fire-cured and dark air-cured tobacco producers were in favor of or opposed to marketing quotas for fire-cured and dark air-cured tobacco for the three-year period beginning October 1, 1949. Since the only purpose of this proclamation is to announce the results of fire-cured and dark air-cured tobacco marketing quota referenda, it is hereby found and determined that with respect to this proclamation, application of the notice and public procedure provisions of the Administrative Procedure Act is unnecessary.

§ 726.7 *Proclamation of results of the fire-cured tobacco marketing quota referendum for the marketing year beginning October 1, 1949, and for the three-year period beginning October 1, 1949.* In a referendum of farmers engaged in the production of the 1948 crop of fire-cured tobacco held on November 27, 1948, 21,140 farmers voted. Of those voting, 20,031 or 94.7 percent favored quotas for a period of three years beginning October 1, 1949; 522 or 2.5 percent favored quotas for only the one year beginning October 1, 1949; and 587 or 2.8 percent were opposed to quotas. Therefore, the national marketing quota of 63,300,000 pounds proclaimed on November 9, 1948 (13 F. R. 6704), for fire-cured tobacco for the 1949-50 marketing year will be in effect for such year and marketing quotas on fire-cured tobacco will be in effect for three marketing years beginning October 1, 1949.

§ 726.8 *Proclamation of results of the dark air-cured tobacco marketing quota referendum for the marketing year beginning October 1, 1949, and for the three-year period beginning October 1, 1949.* In a referendum of farms engaged in the production of the 1948 crop of dark air-cured tobacco held on November 27, 1948, 17,717 farmers voted. Of those voting, 17,028 or 96.1 percent favored quotas for a period of three years beginning October 1, 1949; 262 or 1.5 percent favored quotas for only the one year beginning October 1, 1949; and 427 or 2.4 percent were opposed to quotas. Therefore, the national marketing quota of 33,200,000 pounds proclaimed on November 9, 1948 (13 F. R. 6704), for dark air-cured tobacco for the 1949-50 marketing year will be in effect for such year and marketing quotas on dark air-cured tobacco will be in effect for three marketing years beginning October 1, 1949.

Done at Washington, D. C., this 3d day of January 1949. Witness my hand and the seal of the Department of Agriculture.

[SEAL] A. J. LOVELAND,
Acting Secretary of Agriculture.

[F. R. Doc. 49-83; Filed, Jan. 5, 1949; 8:50 a. m.]

Chapter VIII—Production and Marketing Administration (Sugar Branch), Department of Agriculture

[S. D. 232]

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF FAIR AND REASONABLE WAGE RATES FOR PERSONS EMPLOYED IN PRODUCTION AND CULTIVATION OF SUGARCANE IN LOUISIANA DURING 1949

Pursuant to the provisions of section 301 (c) (1) of the Sugar Act of 1948,

after investigation, and due consideration of the evidence obtained at the public hearing held in Thibodaux, Louisiana, on July 22, 1948, the following determination is hereby issued:

§ 802.27 *Fair and reasonable wage rates for persons employed in the production and cultivation of sugarcane in Louisiana during the calendar year 1949.* The requirements of section 301 (c) (1) of the Sugar Act of 1948 shall be deemed to have been met with respect to the production and cultivation of sugarcane in Louisiana during the calendar year 1949, if the producer complies with the following:

(a) All persons employed on the farm in the production and cultivation of sugarcane during the calendar year 1949 shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates as agreed upon between the producer and the laborer, but not less than the following:

(1) *Basic day rates.* When the average price of raw sugar is between $5.60 and $6.25 per one hundred pounds the basic wage rates per day shall be:

Class of work	*Rate*
For all work except as otherwise specified:	
Adult females, per 9-hour day	$2.40
Adult males, per 9-hour day	2.90
Tractor drivers, per 9-hour day	3.65
Teamsters, per 9-hour day	2.90
Workers between 14 and 16 years of age, per 8-hour day	2.20

(2) *Hourly rates.* Where workers are employed on an hourly basis, the rate per hour shall be determined by dividing the applicable day rate in subparagraph (1) of this paragraph (adjusted in accordance with subparagraph (4) of this paragraph) by 9 in the case of adult workers and by 8 for workers between 14 and 16 years of age.

(3) *Piecework rates.* If work is performed on a piecework rate basis the average earnings for the time involved on each separate unit of work for which a piecework rate is agreed upon shall be not less than the applicable daily or hourly rate provided under subparagraphs (1) and (2) of this paragraph.

(4) *Wage rate adjustments when price of raw sugar is more than $6.25 or less than $5.60 per one hundred pounds.* For each full 10 cents that the price of raw sugar (duty paid basis) shall average more than $6.25 or less than $5.60 per one hundred pounds for the two weeks' period immediately preceding the two weeks' period during which the work is performed, the rates provided in subparagraph (1) of this paragraph shall be increased or decreased $0.05 per day, respectively: *Provided, however,* That the average price of raw sugar prevailing during the period from December 17 through December 30, 1948, shall determine the wage rates during the period from January 1 through January 13, 1949, and, thereafter, the wage rates in successive two weeks' work periods shall be determined by the average price of raw sugar prevailing in the immediately preceding two weeks' period.

The two weeks' average price of raw sugar shall be determined by taking the simple average of the daily "spot" quotations of 96° raw sugar (duty paid basis) of the Louisiana Sugar and Rice Exchange and the Cane Products Trade Association Exchange, except that if the Director of the Sugar Branch determines that for any two weeks' period such average price does not reflect the true market value of raw sugar, because of inadequate volume or other factors, the Director may designate the average price to be effective under this determination.

(b) *Perquisites.* In addition to the foregoing, the producer shall furnish to the laborer without charge the perquisites customarily furnished by him, such as a habitable house, medical attention, and similar items.

(c) *Subterfuge.* The producer shall not reduce the wage rates of laborers below those determined herein through any subterfuge or device whatsoever.

Statement of Bases and Considerations

(a) *General.* The foregoing determination provides fair and reasonable wage rates to be paid by producers to persons employed in the production and cultivation of sugarcane in Louisiana during the calendar year 1949 as one of the conditions for payment under the Sugar Act of 1948. In this Statement the foregoing determination, as well as determinations for prior years will be referred to as "wage determination," identified by the calendar year for which effective.

(b) *Requirements of the Sugar Act and standards employed.* In determining fair and reasonable wage rates, the Sugar Act requires that a public hearing be held, that investigations be made, and that consideration be given to (1) the standards formerly established by the Secretary under the Agricultural Adjustment Act, as amended, and (2) the differences in conditions among various sugar producing areas.

A public hearing was held in Thibodaux, Louisiana, on July 22, 1948, at which time interested persons presented testimony with respect to fair and reasonable wage rates for sugarcane production and cultivation work during the calendar year 1949. In addition, investigations have been made of the conditions affecting wage rates in Louisiana. In this determination, consideration has been given to testimony presented at the hearing and to information resulting from investigations. The primary factors considered have been: (1) Prices of sugar and by-products; (2) income from sugarcane; (3) cost of production; (4) cost of living; and (5) relationship of labor cost to total costs. Other economic influences also were considered.

(c) *Background.* Determinations of fair and reasonable wage rates for work in production and cultivation of sugarcane in Louisiana have been issued for each calendar year beginning with 1938. In the 1938 and 1939 wage determinations specific time rates were provided for adult males and adult females. Beginning with the 1940 wage determination coverage was extended to tractor drivers, teamsters, and workers between 14 and 16 years of age.

The 1938 wage determination increased basic adult male wages for production and cultivation work 20 cents per day over those of the previous year. An increase in producer income at the same time permitted the maintenance of the customary relationship of wages to income that had existed in prior year. The basic wage rates were not changed during the years from 1938 to 1941 and the wage-income relationship remained relatively constant. Beginning in 1942, the basic wage rates were increased 30 cents per day and have been increased in varying amounts each subsequent year. Throughout the period, wage rates have been established primarily on the basis of the historical wage-income relationship, though in more recent years alterations have been made to give recognition to significant changes which have occurred in other factors customarily considered in establishing wage rates. Since the base period 1938–40 the weighted average basic time rates for production and cultivation work have been increased from 13.4 cents per hour to 33.0 cents in 1948, an increase of 146.3 percent.

(d) *1949 wage determination.* The 1949 wage determination is changed in one major respect from the 1948 wage determination. Wage rates are related to the average price of raw sugar by the use of a modified wage escalator scale. This is in contrast with the fixed wage rate structure in effect in 1948. Under the wage escalator scale, wage rates are geared to the average price of raw sugar (duty paid basis) for the two weeks' period immediately preceding the two weeks' period during which the work is performed. When the average price of raw sugar for a two weeks' period ranges between $5.60 and $6.25 per one hundred pounds, inclusive, the wage rates provided in the 1948 wage determination shall be applicable. For each full 10 cents that the average price of raw sugar for a two weeks' period is more than $6.25 or less than $5.60 per one hundred pounds, inclusive, basic day rates are increased or decreased 5 cents per day. For example, if sugar prices average $5.50 per one hundred pounds, basic day rates are reduced 5 cents. Conversely, if the price is $6.35, wage rates are increased 5 cents. Similar adjustments are made for each subsequent full 10 cent price change. The wage adjustment is computed by applying to the basic weighted average day wage the percentage of increase or decrease resulting from 10 cent changes in the price of raw sugar above $6.25 or below $5.60 per one hundred pounds.

The average price of raw sugar is determined by taking the simple average of the daily quotations of 96° raw sugar (duty paid basis) of the Louisiana Sugar and Rice Exchange and the Cane Products Trade Association Exchange. Such average prices are subject to review by the Director of the Sugar Branch, and if he determines that for any two weeks' period such average price does not reflect the true market value of sugar, because of inadequate volume or other factors, he may designate the average price to be effective. Each producer will be responsible for ascertaining the average price of raw sugar and the effective wage rates. The two weeks' average price of raw sugar and the effective wage rates

will be available in the Louisiana State and Parish Offices of the Production and Marketing Administration, Department of Agriculture.

An examination of changes in the economic factors affecting wage rates since the base period 1938–40 reveals that substantial increases have occurred in all such factors, although the price of raw sugar has declined somewhat from the high point reached in 1947 and early 1948. In contrast with the decline in raw sugar prices, producers' costs have continued to increase as has the cost of living for sugarcane workers. In recognition of such trends, the 1949 wage determination provides a variable wage structure adjustable to significant price and income changes.

At the public hearing on fair and reasonable wages it was recommended that wage decreases be based upon income of producers from sugarcane and molasses. As noted in the Statement of Bases and Considerations accompanying the 1948 harvest wage determination, wherein a similar wage-price correlation was provided, consideration has been given to using income as a basis for the modified escalator scale. It is believed, however, that the use of average raw sugar prices will be readily understood by producers and laborers and will provide a more practicable method of administering this provision. The scale employed in this determination is, therefore, based upon average raw sugar prices.

Accordingly, I hereby find and conclude that the foregoing wage determination will effectuate the wage provisions of the Sugar Act of 1948.

(Secs. 301, 403, 61 Stat. 929, 932; 7 U. S. C. Sup. 1131, 1153)

Issued this 3d day of January 1949.

[SEAL] A. J. LOVELAND,
Acting Secretary of Agriculture.

[F. R. Doc. 49–87; Filed, Jan. 5, 1949; 8:49 a. m.]

[S. D. 276]

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF FAIR AND REASONABLE WAGE RATES FOR PERSONS EMPLOYED IN PRODUCTION, CULTIVATION, OR HARVESTING OF SUGARCANE IN PUERTO RICO DURING 1949

Pursuant to the provisions of section 301 (c) (1) of the Sugar Act of 1948, after investigation, and due consideration of the evidence obtained at the public hearing held in San Juan, Puerto Rico, on September 22 and 23, 1948, the following determination is hereby issued:

§ 802.44 *Fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of sugarcane in Puerto Rico during the calendar year 1949.* The requirements of section 301 (c) (1) of the Sugar Act of 1948 shall be deemed to have been met if the producer complies with the following:

(a) All persons employed on the farm in the production, cultivation, or harvesting of sugarcane during the calendar year 1949 shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates as agreed upon between the producer and the laborer but not less than the following:

(1) *Day rates*—(i) *Basic rates.* The basic day rate for the first 8 hours of work performed in any 24-hour period (except that for ditch diggers, ditch cleaners, or field flooders in Class E, herein below, the applicable day rate shall be the first 7 hours of work performed in any 24-hour period) shall be as follows:

Class of work	Basic rates per day	
	Farms other than interior farms	Interior farms[1]
A. All kinds of work not classified below	$1.60	$1.40
B. Operators of mechanical equipment, such as tractors, trucks, tractor plows	2.35	2.20
Classified nonharvest operations		
C. Cartmen in cultivation work	1.60	1.60
D. Plow steersmen and operators of irrigation pumps, and all work connected with mixing and applying chemical weed killers	1.80	1.65
E. Ditch diggers, ditch cleaners, field flooders (per 7-hour day)[2]	1.80	1.65
Classified harvest operations		
F. Cartmen in harvest work	2.00	1.80
G. Sugarcane cutters (for grinding or planting) seed cutters, crane operators, dumpers	1.80	1.65
H. Portable track handlers, railroad or portable track car loaders	2.00	2.00
I. Cane cart or truck loaders	1.90	1.80

[1] Interior farms shall be deemed to be those farms from which sugarcane is marketed (or procured) at the following mills: Santa Barbara, Herminia, or Fajardo.

[2] Field flooders shall be deemed to be workers who set up or remove banks in drainage ditches when used for flooding cane fields.

(ii) *Wage increases.* For each 10 cents or fraction thereof that the price of raw sugar (duty paid basis, delivered) averages more than $3.80 per one hundred pounds but not more than $7.00 per one hundred pounds for the two weeks' period immediately preceding the two weeks' period during which the work is performed, a wage increase of 4.5 cents per day above the rate prescribed in subdivision (i) of this subparagraph shall be paid for each day of work during such two weeks' work period: *Provided, however,* That the average price of raw sugar prevailing during the period from December 9 through December 22, 1948, shall determine the amount of wage increase effective during the work period January 1 through January 5, 1949, and thereafter, the amount of wage increase in successive two weeks' work periods shall be determined by the average price of raw sugar prevailing in the immediately preceding two weeks' period. The two weeks' average price of raw sugar (duty paid basis, delivered) shall be determined by taking the simple average of the daily "spot" quotations of 96° raw sugar of the New York Coffee and Sugar Exchange (Sugar Contract No. 5) adjusted to a duty paid basis, delivered, by adding to each daily "spot" quotation the United States duty prevailing on Cuban raw sugar on that day, except that if the Director of the Sugar Branch determines that for any two weeks' period such average price does not reflect the true market value of raw sugar, because of inadequate volume or other factors, the Director may designate the average price to be effective under this determination.

(2) *Hourly rates.* Where persons are employed on an hourly basis for a period not in excess of 8 hours (7 hours in Class E) in any 24-hour period, the hourly rate shall be determined by dividing the applicable day rate provided in subparagraph (1) of this paragraph by 8 (by 7 in Class E).

(3) *Overtime.* Persons employed for more than 8 hours (or 7 hours under Class E) in any 24-hour period shall be paid for the overtime work at a rate double the hourly equivalent of the applicable day rate provided in subparagraph (1) of this paragraph.

(4) *Piece rates.* If work is performed on a piece rate basis the average earnings for the time involved on each separate unit of work for which a piece work rate is agreed upon shall be not less than the applicable daily or hourly rate provided in subparagraphs (1), (2), or (3) of this paragraph.

(b) *Perquisites.* In addition to the foregoing, the producer shall furnish to the laborer, without charge, the perquisites customarily furnished by him, such as a dwelling, garden plot, pasture lot and medical services.

(c) *Subterfuge.* The producer shall not reduce the wage rates to laborers below those determined herein through any subterfuge or device whatsoever.

Statement of Bases and Considerations

(a) *General.* The foregoing determination provides fair and reasonable wage rates to be paid by producers to persons employed in the production, cultivation, or harvesting of sugarcane in Puerto Rico during the calendar year 1949 as one of the conditions for payment under the Sugar Act of 1948. In this statement the foregoing determination, as well as determinations for prior years, will be referred to as "wage determination" identified by the calendar year for which effective.

(b) *Requirements of the Sugar Act and standards employed.* In determining fair and reasonable wage rates it is required by the Sugar Act that a public hearing be held, that investigations be made, and that consideration be given to (1) the standards formerly established by the Secretary under the Agricultural Adjustment Act, as amended, and (2) differences in conditions among the various sugar producing areas.

A public hearing was held in San Juan on September 22 and 23, 1948, at which time interested persons presented testimony with respect to fair and reasonable wage rates for the calendar year 1949. In addition, investigations have been made of the conditions affecting wage rates in Puerto Rico. In determining fair and reasonable wage rates for the calendar year 1949, consideration has been given to testimony presented at the hearing and to information resulting from investigations. The primary factors considered have been: (1) Prices of sugar and by-products; (2) income from sugarcane; (3) cost of production; (4)

cost of living; and (5) relationship of labor costs to total costs. Consideration also has been given to other economic influences.

(c) *Background.* Determinations of fair and reasonable wage rates for Puerto Rico have been issued each year since 1938. The first wage determination increased minimum wage rates over the prevailing rates of 1937 and immediately preceding years. The relationship of wages to income of producers was generally maintained, however, in the same ratio as had existed theretofore in the collective bargaining agreements negotiated between producers and laborers. In the 1938 wage determination the basic minimum wage rate for the least skilled workers was $1.00 per 8-hour day. This basic wage rate was increased to $1.30 in 1942 and $1.50 in 1943. Commensurate increases were made in the rates for workers of higher skills during these years and in 1944. Subsequent to 1944 basic wage rates have remained unchanged.

In 1940, when increases in raw sugar prices were anticipated, there was incorporated in the wage determination a provision for wage increases over and above basic wage rates when the price of raw sugar exceeded a stated price. While details of the wage increment plan have been changed in subsequent years, the wage determinations in all years except for a portion of 1943 have included a wage-price escalator scale. In the 1948 wage determination, the wage escalator scale provided that increases of 4.5 cents per day above the basic day wage rates shall be paid for each 10 cents, or fraction thereof, increase in the two weeks' average price of raw sugar above $3.80 per one hundred pounds.

In the 1938 wage determination basic daily wage rates were established for various classes of workers grouped according to relative skills. In subsequent years revisions have been made in the classification and grouping of jobs as a result of changes in production methods. In all years since 1938, a differential in rates has been provided for farms delivering sugarcane to certain mills in the interior region of the island.

(d) *1949 wage determination.* The wage determination for the calendar year 1949 continues the same basic wage rates and wage escalator scale which were in effect during the calendar year 1948.

An examination of available data indicates that prices paid for food and clothing in Puerto Rico have not changed significantly during the last year. With respect to changes in income, the wage determinations since 1940, except for a portion of 1943, have included escalator provisions under which wage rates moved upward or downward with changes in raw sugar price to provide for the maintenance of a nearly constant ratio of wages to income. Thus, while income has been lower as the result of decreases in raw sugar prices from the high levels reached during 1947 and early 1948, as well as from lower molasses prices, wages have also declined to maintain approximately the basic wage-income relationship established in 1944.

While costs of producing sugarcane continued to rise in 1948, the prospects of a larger crop in 1949 will tend to lower unit costs from the level reported for 1948. A consideration of the above and other pertinent factors indicates that the retention of the 1948 wage scale will not seriously alter the basic relationships generally considered in wage determinations.

Accordingly, I hereby find and conclude that the foregoing wage determination will effectuate the wage provisions of the Sugar Act of 1948.

(Secs. 301, 403, 61 Stat. 929, 932; 7 U. S. C. Sup. 1131, 1153)

Issued this 3d day of January 1949.

[SEAL] A. J. LOVELAND,
Acting Secretary of Agriculture.

[F. R. Doc. 49-86; Filed, Jan. 5, 1949; 8:49 a. m.]

[S. D. 279]

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF FAIR AND REASONABLE WAGE RATES FOR PERSONS EMPLOYED IN PRODUCTION, CULTIVATION, OR HARVESTING OF SUGARCANE IN VIRGIN ISLANDS DURING 1949

Pursuant to the provisions of section 301 (c) (1) of the Sugar Act of 1948, after investigation, and due consideration of the evidence obtained at the public hearing held in Christiansted, St. Croix, Virgin Islands on September 27, 1948, the following determination is hereby issued:

§ 802.51 *Fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of sugarcane in the Virgin Islands during the calendar year 1949.* The requirements of section 301 (c) (1) of the Sugar Act of 1948 shall be deemed to have been met if the producer complies with the following:

(a) All persons employed on the farm in the production, cultivation, or harvesting of sugarcane during the calendar year 1949 shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates as agreed upon between the producer and the laborer, but not less than the following:

(1) *Basic time rates.* (i) Per day of 8 hours: $2.00.

(ii) Per hour: $0.25.

(iii) For an individual whose productive capacity is impaired by age or physical or mental deficiency, the wage rate shall be as agreed upon between the producer and laborer, provided such rate is approved by the local supervisor of the office of the Production and Marketing Administration, San Juan, Puerto Rico.

(2) *Wage increases.* For each 10 cents or fraction thereof that the price of raw sugar (duty paid basis, delivered) averages more than $6.00 per one hundred pounds for the week immediately preceding the week during which the work is performed, a wage increase of 3.5 cents per day (hourly rate in proportion) above the rates prescribed in subparagraph (1) of this paragraph shall be paid for each day of work during such week's work period: *Provided, however,* That the average price of raw sugar prevailing during the period December 27, 1948 through January 2, 1949, shall determine the amount of wage increase effective during the work period January 1 through January 9, 1949, and, thereafter, the amount of wage increase in each successive one week work periods shall be determined by the average price of raw sugar prevailing in the immediately preceding week. The weekly average price of raw sugar (duty paid basis, delivered) shall be determined by taking the simple average of the daily "spot" quotations of 96° raw sugar of the New York Coffee and Sugar Exchange (Sugar Contract No. 5), adjusted to a duty paid basis, delivered, by adding to each daily "spot" quotation the United States duty prevailing on Cuban raw sugar on that day, except, that, if the Director of the Sugar Branch determines that for any weekly period such average price does not reflect the true market value of raw sugar, because of inadequate volume or other factors, the Director may designate the average price to be effective under this determination.

(3) *Piecework rates.* If work is performed on a piecework rate basis, the average earnings for the time involved on each separate unit of work for which a piecework rate is agreed upon shall be not less than the applicable daily or hourly rate provided under subparagraphs (1) and (2) of this paragraph.

(b) *Perquisites.* In addition to the foregoing, the producer shall furnish to the laborer, without charge, the perquisites customarily furnished by him, such as a dwelling, garden plot, pasture lot and medical services.

(c) *Subterfuge.* The producer shall not reduce the wage rates to laborers below those determined herein through any subterfuge or device whatsoever.

Statement of Bases and Considerations

(a) *General.* The foregoing determination provides fair and reasonable wage rates to be paid by producers to persons employed on the farm in the production, cultivation, or harvesting of sugarcane in the Virgin Islands during the calendar year 1949 as one of the conditions for payment under the Sugar Act of 1948. In this statement the foregoing determination, as well as determinations for prior years, will be referred to as "wage determination" identified by the calendar year for which effective.

(b) *Requirements of the Sugar Act and standards employed.* In determining fair and reasonable wage rates, it is required by the Sugar Act that a public hearing be held, that investigations be made, and that consideration be given to (1) the standards formerly established by the Secretary under the Agricultural Adjustment Act, as amended, and (2) the differences in conditions among the various sugar producing areas.

A public hearing was held in Christiansted, St. Croix, Virgin Islands, on September 27, 1948, at which time interested persons presented testimony with respect to fair and reasonable wage rates for the calendar year 1949. In addition, investigations have been made of the

conditions affecting wage rates in the Virgin Islands. In this determination consideration has been given to testimony presented at the hearing and to information resulting from investigations. The primary factors considered have been: (1) Prices of sugar and by-products; (2) income from sugar cane; (3) cost of production; (4) cost of living; and (5) relationship of labor costs to total costs. Consideration has also been given to other economic influences.

(c) *Background.* Determinations of fair and reasonable wage rates have been issued for the Virgin Islands each year beginning with 1942. During the intervening years the determinations have varied with respect to content and applicability. In general, a basic wage rate per day has been stipulated.

Wage rates per day in 1941 were reported to be 88 cents per day for nonharvest work and $1.04 for harvest work. The 1942 determination provided minimum wages of $1.04 per 8 hour day for nonharvest work and $1.36 per 8 hour day for harvest work. In 1944 on the recommendation of producers and laborers, a single basic day rate for both harvesting and nonharvesting work was issued. The practice of issuing a single rate has been continued in subsequent determinations. In 1948 the basic time rate per 8 hour day was $2.00, an increase of approximately 121 percent over 1941 and 84 percent over 1942, the first year of issuance of a wage determination.

In 1946 piecework rates were specified for cutting and loading sugarcane. Piecework rates in all other years have been stated to be those agreed upon between the producer and the laborer provided that average earnings for the time involved on each separate unit of piecework be not less than the basic time rates. The 1947 wage determination provided for a wage bonus of 6 cents per day for each 25 cents that the New York price of raw sugar, used as a basis for sale, averaged more than $5.94 per one hundred pounds. In the 1948 wage determination the bonus provision was supplanted by a modified wage-price escalator which provided that increases of 3.5 cents per day above the basic day wage rates shall be paid for each 10 cents, or fraction thereof, increase in the yearly average price of raw sugar above $6.00 per one hundred pounds.

(d) *1949 wage determination.* The wage determination for the calendar year 1949 continues the same basic wage rates and wage escalator scale which were in effect during the calendar year 1948.

While representatives of laborers strongly urged an increase in the basic wage rate during the calendar year 1949, there appears to be no basis upon which the recommended increase can be made. Because of the many hazards of producing sugarcane, such as lack of adequate rainfall, low yields of sugarcane and low extraction of sugar from the sugarcane, the Virgin Islands has customarily been a low income and low wage area. Thus, while it is acknowledged by producers and laborers alike that the basic wage rates are low in comparison with other domestic sugarcane areas, both groups recognize the distressed financial position of producers. During the last several years the production of sugarcane has resulted in a substantial loss per ton of cane harvested by the largest producer (the Virgin Islands Company) and a very small realization, if any, for the approximate 540 small growers on the islands.

The Virgin Islands Company (created in 1934 and operated by the Department of Interior to assist in the economic welfare of the inhabitants of the Virgin Islands by providing employment in producing sugarcane and manufacturing raw sugar and by-products) produced approximately 55 percent of the sugarcane harvested in the 1948 crop. In comparison with the 1947 crop the company costs for producing a ton of cane in the 1948 crop were up 1.5 percent. Returns on the other hand declined approximately 18.7 percent, primarily because of the decline in the price of raw sugar. The operating losses for 1948 sugarcane production were significantly greater than losses sustained on 1947 crop operations.

Although detailed information is available only with respect to the operations of the Virgin Islands Company, the same general situation of relatively high costs and decreasing income prevailed for the independent growers, most of whom produce only a small quantity of sugarcane and employ very few hired workers. Frequently these producers supplement their income from sugarcane by producing a limited number of other commodities and working for the Virgin Islands Company.

In recognition of the unfavorable financial position of producers, the economic interdependence among producers, laborers, and the Virgin Islands Company, the continuing high levels of food and clothing prices, and the uncertainties of yields, it is deemed fair and reasonable to continue the provisions of the 1948 wage determination for the calendar year 1949.

Accordingly, I hereby find and conclude that the foregoing wage determination will effectuate the wage provisions of the Sugar Act of 1948.

(Secs. 301, 403, 61 Stat. 929, 932; 7 U. S. C. Sup. 1131, 1153)

Issued this 3d day of January 1949.

[SEAL] A. J. LOVELAND,
Acting Secretary of Agriculture.

[F. R. Doc. 49-91; Filed, Jan. 5, 1949; 8:50 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 5507]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

R. K. ARMSTRONG

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product or service:* § 3.71 (e) *Neglecting, unfairly or deceptively, to make material disclosure—Safety:* § 3.96 (a) *Using misleading name—Goods—Qualities or properties.* In connection with the offering for sale, sale or distribution of respondent's medicinal preparation designated "Bob Armstrong's Distemper Remedy", or any preparation of substantially similar composition or possessing substantially similar properties, disseminating, etc., any advertisements by means of the United States mails, or in commerce, or by any means to induce, etc., directly or indirectly the purchase in commerce, etc., of said preparation, which advertisements (a) represent, directly or by implication, that said preparation is a cure or remedy for distemper; or that said preparation possesses any therapeutic value in the treatment of distemper except insofar as it may afford relief from the symptoms thereof; or, (b) use the word "remedy" or any word of similar import, either alone or in connection with other words, to designate or describe said preparation; or which advertisements fail to reveal that each capsule of said preparation contains 9.7 grains of arsenic trioxide and that said ingredient is a poison; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U. S. C., sec. 45b) [Cease and desist order, R. K. Armstrong, Docket 5507, December 10, 1948]

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., on the 10th day of December A. D. 1948.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the respondent's answer thereto, testimony and other evidence in support of and in opposition to the allegations of the complaint taken before a trial examiner of the Commission theretofore duly designated by it, the trial examiner's recommended decision, and brief of counsel in support of the complaint (no brief having been filed on behalf of the respondent and oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Bob Armstrong, individually and trading as R. K. Armstrong, or trading under any other name, and his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of respondent's medicinal preparation now designated "Bob Armstrong's Distemper Remedy," or any preparation of substantially similar composition or possessing substantially similar properties, under whatever name sold, do forthwith cease and desist from:

1. Disseminating or causing to be disseminated by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which:

(a) Represents, directly or by implication, that said preparation is a cure or remedy for distemper; or that said preparation possesses any therapeutic value in the treatment of distemper except insofar as it may afford relief from the symptoms thereof;

(b) Uses the word "remedy" or any word of similar import, either alone or

in connection with other words, to designate or describe said preparation.

2. Disseminating or causing to be disseminated by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which fails to reveal that each capsule of said preparation contains 9.7 grains of arsenic trioxide and that said ingredient is a poison.

3. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of respondent's preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any representation prohibited in paragraph 1 hereof or which fails to comply with the affirmative requirements set forth in paragraph 2 hereof.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 49-71; Filed, Jan. 5, 1949; 8:45 a. m.]

[Docket 5540]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

INTER-COMMUNICATION SYSTEM OF AMERICA, INC., ET AL.

§ 3.6 (f) *Advertising falsely or misleadingly—Demand or business opportunities:* § 3.6 (i) *Advertising falsely or misleadingly—Free goods or services:* § 3.6 (j 10) *Advertising falsely or misleadingly—History of product or offering:* § 3.6 (y 10) *Advertising falsely or misleadingly—Scientific or other relevant facts:* § 3.6 (ee) *Advertising falsely or misleadingly—Terms and conditions:* § 3.6 (ff 10) *Advertising falsely or misleadingly—Unique nature or advantages:* § 3.72 (e) *Offering unfair, improper and deceptive inducements to purchase or deal—Free goods:* § 3.72 (i 5) *Offering unfair, improper and deceptive inducements to purchase or deal—Opportunities in product or service:* § 3.72 (n 10) *Offering unfair, improper and deceptive inducements to purchase or deal—Terms and conditions:* § 3.80 (b) *Securing agents or representatives falsely or misleadingly—Demand or business opportunities:* § 3.80 (h) *Securing agents or representatives falsely or misleadingly—Success, history or standing:* § 3.80 (i) *Securing agents or representatives falsely or misleadingly—Terms and conditions:* In connection with the offering for sale, sale or distribution in commerce, of respondents' inter-communication devices, and among other things, as in order set forth, (1) using the terms "free", "free demonstration offer", "yours without cost", or any other term or terms of similar import or meaning, in advertising, to designate or describe merchandise which is not in truth and in fact a gift or gratuity or is not given to the recipient thereof without requiring the purchase of other merchandise or the performance of some service inuring directly or indirectly to the benefit of the respondents; (2) representing, directly or by implication, that their inter-communication devices are new inventions, or that there are no products on the market sold in competition with said devices; or, (3) representing, directly or by implication, that the sale of said devices requires no capital, sales effort or ability on the part of salesmen; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U. S. C., sec. 45b) [Cease and desist order, Inter-Communication System of America, Inc., et al., Docket 5540, December 1, 1948]

§ 3.6 (d) *Advertising falsely or misleadingly—Demand or business opportunities:* § 3.6 (g) *Advertising falsely or misleadingly—Earnings:* § 3.6 (h) *Advertising falsely or misleadingly—Fictitious or misleading guarantees:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product or service:* § 3.6 (dd 10) *Advertising falsely or misleadingly—Success, use or standing:* § 3.72 (c) *Offering unfair, improper and deceptive inducements to purchase or deal—Earnings:* § 3.72 (f 15) *Offering unfair, improper and deceptive inducements to purchase or deal—Guarantee, in general:* § 3.72 (i 5) *Offering unfair, improper and deceptive inducements to purchase or deal—Opportunities in product or service:* § 3.72 (n 10) *Offering unfair, improper and deceptive inducements to purchase or deal—Terms and conditions:* § 3.80 (b) *Securing agents or representatives falsely or misleadingly—Demand or business opportunities:* § 3.80 (c) *Securing agents or representatives falsely or misleadingly—Earnings:* § 3.80 (e 5) *Securing agents or representatives falsely or misleadingly—Qualities or properties of product:* § 3.80 (h) *Securing agents or representatives falsely or misleadingly—Success, history or standing:* § 3.80 (i) *Securing agents or representatives falsely or misleadingly—Terms and conditions.* In connection with the offering for sale, sale or distribution in commerce of respondents' inter-communication devices, and among other things, as in order set forth, (1) representing, directly or by implication, that conversations or other communications may be transmitted over said devices privately or confidentially; (2) representing, directly or by implication, that 99 out of every 100 prospects purchase said devices; (3) representing as possible earnings or profits of salesmen of such devices for any stated period of time any specified sum of money which is not a true representation of the net earnings or profits which have been made by a substantial number of the respondents' active salesmen in the ordinary course of business under normal conditions and circumstances; or, (4) representing, directly or by implication, that respondents' devices are "guaranteed" or "fully guaranteed", unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U. S. C., sec. 45b) [Cease and desist order, Inter-Communication System of America, Inc., et al., Docket 5540, December 1, 1948]

At a regular session of the Federal Trade Commission held at its office in the city of Washington, D. C., on the 1st day of December A. D. 1948.

In the matter of Inter-Communication System of America, Inc., a corporation, and Milton Meyer, Joseph Meyer, and Nathan Meyer, individually and as officers of Inter-Communication System of America, Inc.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and a stipulation as to the facts entered into by and between the respondents and Daniel J. Murphy, Chief of the Commission's Trial Division, in which it was provided, among other things, that, subject to the approval of the Commission, the statement of facts contained in said stipulation may be taken as the facts in this proceeding in lieu of all evidence, and that the Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts (including inferences which it may draw from the stipulated facts) and its conclusion based thereon, and enter its order disposing of this proceeding, without the presentation of argument or the filing of briefs, the filing of a recommended decision by a trial examiner having been expressly waived; and the Commission having approved said stipulation and having made its findings as to the facts and its conclusion that the respondents have violated the provisions of section 5 of the Federal Trade Commission Act:

It is ordered, That the respondent Inter-Communication System of America, Inc., a corporation, and its officers, and the respondents Milton Meyer, Joseph Meyer and Nathan Meyer, and said respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of their inter-communication devices, do forthwith cease and desist from:

1. Using the terms "free", "free demonstration offer", "yours without cost", or any other term or terms of similar import or meaning, in advertising, to designate or describe merchandise which is not in truth and in fact a gift or gratuity or is not given to the recipient thereof without requiring the purchase of other merchandise or the performance of some service inuring directly or indirectly to the benefit of the respondents.

2. Representing, directly or by implication, that their intercommunication devices are new inventions, or that there are no products on the market sold in competition with said devices.

3. Representing, directly or by implication, that the sale of said devices requires no capital, sales effort or ability on the part of salesmen.

4. Representing, directly or by implication, that conversations or other communications may be transmitted over said devices privately or confidentially.

5. Representing, directly or by implication, that 99 out of every 100 prospects purchase said devices.

6. Representing as possible earnings or profits of salesmen of such devices for any stated period of time any specified sum of money which is not a true representation of the net earnings or profits which have been made by a substantial number of the respondents' active salesmen in the ordinary course of business under normal conditions and circumstances.

7. Representing, directly or by implication, that their devices are "guaranteed" or "fully guaranteed", unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 49-72; Filed, Jan. 5, 1949; 8:45 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

REDESIGNATION OF TITLE AND REASSIGNMENT AND RENUMBERING OF CHAPTERS AND PARTS

Correction

In the editorial note on page 8260 of the issue for Thursday, December 23, 1948, the first sentence to paragraph 4 should read as follows:

4. Chapter V is redesignated Chapter II—Federal Housing Administration, Housing and Home Finance Agency, and Parts 500-591 are renumbered Parts 200-291.

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[T. D. 5683]

PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

FARMER'S CHANGE TO INVENTORY METHOD OF ACCOUNTING

On June 9, 1948, notice of proposed rule making with respect to a farmer's change to the inventory method of accounting was published in the FEDERAL REGISTER (13 F. R. 3096). After consideration of all such relevant matter as was presented by interested persons regarding the proposal, the amendments to Regulations 111 (26 CFR, Part 29) set forth below are hereby adopted.

Section 29.22 (c)-6 of Regulations 111, as amended by Treasury Decision 5423, approved December 15, 1944, is further amended by striking the first paragraph and by inserting in lieu thereof the following:

§ 29.22 (c)-6 *Inventories of livestock raisers and other farmers.* A farmer may make his return upon an inventory basis instead of the cash receipts and disbursements basis. It is optional with the taxpayer which of these methods of accounting is used, but, having elected one method, the option so exercised will be binding upon the taxpayer for the year for which the option is exercised and for subsequent years unless another method is authorized by the Commissioner as provided in § 29.41-2.

Formal application for permission to change from the cash receipts and disbursements basis to an inventory basis of accounting shall not be required in the case of a change made for a taxable year beginning before December 30, 1948, the date of approval of Treasury Decision 5683.

In any change of accounting from the cash receipts and disbursements basis to an inventory basis, whether made for a taxable year beginning before or after December 30, 1948, adjustments shall be made, at the option of the taxpayer, in accordance with one or the other of the two methods outlined in paragraphs (a) and (b) of this section:

(Sec. 62 of the Internal Revenue Code, 53 Stat. 32; 26 U. S. C. 62)

[SEAL] GEO. J. SCHOENEMAN,
Commissioner.

Approved: December 30, 1948.

THOMAS J. LYNCH,
Acting Secretary of the Treasury.

[F. R. Doc. 49-83; Filed, Jan. 5, 1949; 8:48 a. m.]

Subchapter C—Miscellaneous Excise Taxes

[T. D. 5682]

PART 101—TAXES ON ADMISSIONS, DUES, AND INITIATION FEES

HOSPITALIZED SERVICEMEN AND VETERANS ADMITTED FREE

In order to conform Regulations 43 (1941 edition) (26 CFR, Part 101) to Public Law 706 (80th Congress), approved June 19, 1948, such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 101.2 the following:

PUBLIC LAW 706 (80TH CONGRESS), APPROVED JUNE 19, 1948

• • • That section 1700 (a) (1) of the Internal Revenue Code (relating to the tax on amounts paid for admission) is amended by adding at the end thereof a new sentence as follows: "Subject to such regulations as the Commissioner, with the approval of the Secretary, shall prescribe, no tax shall be imposed in the case of admission free of charge of a hospitalized member of the military, naval, or air forces of the United States or of a person hospitalized as a veteran by the Federal Government in a Federal, State, municipal, private, or other hospital or institution, except when such member or veteran is on leave or furlough."

SEC. 2. The amendment made by this act shall be effective on and after the first day of the first month which commences more than twenty days after the enactment of this act.

PAR. 2. Section 101.5 (b), as amended by Treasury Decision 5611, approved March 16, 1948, is further amended by inserting immediately preceding the last paragraph thereof a new paragraph reading as follows:

Effective August 1, 1948, the tax does not apply to the admission free of charge of a hospitalized member of the military, naval, or air forces of the United States or of a person hospitalized as a veteran by the Federal Government in a Federal, State, municipal, private or other hospital or institution, provided such member or veteran is not on leave or furlough. Where it is necessary for an attendant to accompany such member or veteran so admitted free of charge, the tax does not apply to the admission of the attendant if he is also admitted free of charge. Where the exemption is claimed on behalf of a hospitalized member or veteran properly entitled thereto, who is singly admitted, the right to the exemption shall be evidenced by a statement, personally signed, of an administrative officer of the hospital or institution, identifying by name such member or veteran (and attendant, if any) and certifying that the member or veteran (i) is a hospitalized member of the military, naval, or air forces of the United States or a veteran hospitalized by the Federal Government, and (ii) is not on leave or furlough. Where the exemption is claimed on behalf of hospitalized members or veterans who are collectively admitted the statement need not identify the members or veterans individually, but shall specify the number of such members or veterans (and attendants, if any) and certify that the members or veterans (a) are hospitalized members of the military, naval or air forces of the United States or are veterans hospitalized by the Federal Government and (b) are not on leave or furlough. In either case the statement evidencing the right to the exemption shall be taken up by the proprietor of the place, and retained as part of his records. (See § 101.32.)

PAR. 3. The following is inserted immediately preceding § 101.15:

PUBLIC LAW 706 (80TH CONGRESS), APPROVED JUNE 19, 1948

• • • That section 1700 (a) (1) of the Internal Revenue Code (relating to the tax on amounts paid for admission) is amended by adding at the end thereof a new sentence as follows: "Subject to such regulations as the Commissioner, with the approval of the Secretary, shall prescribe, no tax shall be imposed in the case of admission free of charge of a hospitalized member of the military, naval, or air forces of the United States or of a person hospitalized as a veteran by the Federal Government in a Federal, State, municipal, private, or other hospital or institution, except when such member or veteran is on leave or furlough."

SEC. 2. The amendment made by this act shall be effective on and after the first day of the first month which commences more than twenty days after the enactment of this act.

PAR. 4. Section 101.15 (b) as amended by Treasury Decision 5611, is further

amended by adding at the end thereof a paragraph reading as follows:

Effective August 1, 1948, no tax is imposed when a hospitalized member of the military, naval, or air forces of the United States, or a person hospitalized as a veteran by the United States in a Federal, State, municipal, private, or other hospital or institution, is admitted free, provided such member or veteran is not on leave or furlough. (See § 101.5.)

Because the sole purpose of this Treasury decision is to relieve restriction, it is found that it is unnecessary to issue such Treasury decision with notice and public procedure thereon under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4 (c) of said act.

(Sec. 1700 (a) (1) of the Internal Revenue Code as amended by section 1 of Public Law 706, 80th Congress, approved June 19, 1948, and section 3791 of the Internal Revenue Code, 53 Stat. 189, as amended, 467; 26 U. S. C. 1700 (a) (1), 3791)

[SEAL] FRED S. MARTIN,
Acting Commissioner of Internal Revenue.

Approved: December 30, 1948.

THOMAS J. LYNCH,
Acting Secretary of the Treasury.

[F. R. Doc. 49-81; Filed, Jan. 5, 1949; 8:47 a. m.]

Subchapter D—Employment Taxes

PART 410—EMPLOYERS' TAX, EMPLOYEES' TAX, AND EMPLOYEE REPRESENTATIVES' TAX UNDER THE CARRIERS TAXING ACT OF 1937 AND SUBCHAPTER B OF CHAPTER 9 OF THE INTERNAL REVENUE CODE

PART 411—EMPLOYERS' TAX, EMPLOYEES' TAX, AND EMPLOYEE REPRESENTATIVES' TAX UNDER THE RAILROAD RETIREMENT TAX ACT

On November 4, 1948, notice of proposed rule making, regarding regulations relating generally to the taxes under the Railroad Retirement Tax Act (subchapter B, chapter 9, Internal Revenue Code) with respect to compensation paid after December 31, 1948, for services rendered after December 31, 1946, was published in the FEDERAL REGISTER (13 F. R. 6503). No objection to the rules proposed having been received, the regulations set forth below are hereby adopted. The primary purpose of the regulations is to meet the long-standing need for a more usable edition of the regulations with respect to the taxes under the Railroad Retirement Tax Act. Such regulations are as follows:

SUBPART A—INTRODUCTORY PROVISIONS

Sec.
411.101 Introduction.
411.102 Scope of regulations.
411.103 Extent to which the regulations in this part supersede Part 410.

SUBPART B—DEFINITIONS

411.201 General definitions and use of terms.
411.202 Who are employers.
411.203 Who are employees.
411.204 Who are employee representatives.
411.205 Definition of compensation.
411.206 Items included as compensation.
411.207 Compensation; when earned.
411.208 Compensation; when paid.

SUBPART C—EMPLOYEES' TAX

411.301 Measure of employees' tax.
411.302 Rates and computation of employees' tax.
411.303 Collection of, and liability for, employees' tax.

SUBPART D—EMPLOYERS' TAX

411.401 Measure of employers' tax.
411.402 Rates and computation of employers' tax.

SUBPART E—EMPLOYEE REPRESENTATIVES' TAX

411.501 Measure of employee representatives' tax.
411.502 Rates and computation of employee representatives' tax.

SUBPART F—RETURNS, PAYMENT OF TAX, AND RECORDS

411.601 Quarterly returns of tax.
411.602 Final returns.
411.603 Execution of returns.
411.604 Use of prescribed forms.
411.605 Place and time for filing returns.
411.606 Payment of tax.
411.607 When fractional part of cent may be disregarded.
411.608 Records.

SUBPART G—ADJUSTMENT OF EMPLOYEES' TAX AND EMPLOYERS' TAX

411.701 Adjustments in general.
411.702 Adjustment of employees' tax.
411.703 Adjustment of employers' tax.

SUBPART H—REFUNDS, CREDITS, AND ABATEMENTS

411.801 Refund or credit of overpayments which are not adjustable; abatement of overassessments.
411.802 Credit and refund of taxes paid under Railroad Retirement Tax Act or corresponding prior law for period during which liability existed under Federal Insurance Contributions Act or corresponding prior law.

SUBPART I—MISCELLANEOUS PROVISIONS

ASSESSMENT AND COLLECTION OF UNDERPAYMENTS

411.901 Assessment and collection of underpayments.

JEOPARDY ASSESSMENTS

411.902 Jeopardy assessments.

INTEREST AND ADDITIONS TO TAX

411.903 Interest.
411.904 Addition to tax for failure to pay an assessment after notice and demand.
411.905 Additions to tax for delinquent or false returns.

RULES AND REGULATIONS

411.906 Promulgation of regulations.

AUTHORITY: §§ 411.101 to 411.906 issued under secs. 1535 and 3791 of the Internal Revenue Code (53 Stat. 183, 467; 26 U. S. C. 1535, 3791).

SUBPART A—INTRODUCTORY PROVISIONS

§ 411.101 *Introduction.* These regulations, which constitute Part 411 of Title 26 of the Code of Federal Regulations, are prescribed under the Railroad Retirement Tax Act (subchapter B, chapter 9, Internal Revenue Code). The applicable provisions of the act, as well as certain applicable provisions of internal-revenue laws of particular importance, will be found in the appropriate places in, and are to be read in connection with, the regulations in this part. References to sections of law are references to the Railroad Retirement Tax Act, unless otherwise expressly indicated. Inasmuch as these regulations constitute Part 411 of Title 26 of the Code of Federal Regulations, each section of the regulations bears a number commencing with 411 and a decimal point. References to sections not preceded by "411." are references to sections of law.

§ 411.102 *Scope of regulations*—(a) *Taxes and related definitions.* The regulations in this part relate to the employers' tax, the employees' tax, and the employee representatives' tax, imposed by the Railroad Retirement Tax Act, with respect to compensation paid after December 31, 1948, for services rendered after December 31, 1946. (As to when compensation is deemed to be paid, see § 411.208.) The definitions of the terms "employer", "employee", "employee representative", and "compensation" set forth in the regulations in this part are to be used only in connection with such regulations and are applicable only to services rendered after December 31, 1946.

For provisions relating to the respective taxes and definitions with respect to compensation paid prior to January 1, 1949, or earned prior to January 1, 1947, see Regulations 100 (26 CFR, Part 410) and such regulations as made applicable to the Internal Revenue Code by Treasury Decision 4885 (26 CFR, Cum. Supp., p. 5876).

(b) *Additional subjects covered*—(1) *Returns and payment of tax.* The regulations in this part relate to returns and payment of employers' tax, employees' tax, and employee representatives' tax, required to be reported on returns for periods beginning after December 31, 1948. (For provisions relating to the period for which compensation is required to be reported, see § 411.601.)

(2) *Records.* The regulations in this part relate to the records of employers and employees with respect to remuneration paid after December 31, 1948, for services rendered after December 31, 1936, and to the records of employee representatives with respect to remuneration paid after December 31, 1948, for services rendered after December 31, 1946.

(3) *Adjustments, settlements, and claims.* The regulations in this part relate to adjustments, settlements, and claims for refund, credit, or abatement, made after December 31, 1948, in connection with the employers' tax and the employees' tax under the Railroad Retirement Tax Act in force before, on, or after January 1, 1947, or under the Carriers Taxing Act of 1937, but not to any adjustment reported, or any credit taken, on any return for a tax-return period ended prior to January 1, 1949. However, § 410.707 (article 707 of Regulations 100) and of such regulations as made applicable to the Internal Revenue Code remains in full force and effect with respect to the treatment under section 4 (b) of the act approved August 13, 1940 (54 Stat. 786), of the employers' tax and the em-

ployees' tax with respect to certain coal mining services performed in the employ of a carrier by railroad subject to part I of the Interstate Commerce Act. The regulations in this part also relate to claims for refund, credit, or abatement made after December 31, 1948, in connection with the employee representatives' tax under the Railroad Retirement Tax Act in force before, on, or after January 1, 1947, or under the Carriers Taxing Act of 1937.

§ 411.103 *Extent to which the regulations in this part supersede Part 410.* The regulations in this part, with respect to the subject matter within the scope thereof, supersede Regulations 100, approved October 12, 1937 (26 CFR, Part 410), as amended, and such regulations as made applicable to subchapter B of chapter 9 and other provisions of the Internal Revenue Code by Treasury Decision 4885, approved February 11, 1939 (26 CFR, Cum. Supp., p. 5876), together with any amendments to such regulations as so made applicable to the Internal Revenue Code.

SUBPART B—DEFINITIONS

SECTION 3 (g) OF THE ACT OF JULY 31, 1946 (60 STAT. 725)

RAILROAD RETIREMENT TAX ACT

Subchapter B of Chapter 9 of the Internal Revenue Code is amended by adding at the end thereof the following new section:

SEC. 1538. *Title of subchapter.* This subchapter may be cited as the "Railroad Retirement Tax Act."

SECTION 2 OF THE ACT OF FEBRUARY 10, 1939 (53 STAT. 1)

INTERNAL REVENUE CODE

This act and the internal revenue title incorporated herein shall be known as the Internal Revenue Code and may be cited as "I. R. C.".

SECTION 1532 OF THE ACT

DEFINITIONS

As used in this subchapter:

(a) *Employer.* The term "employer" means any carrier (as defined in subsection (h) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided, however,* That the term "employer" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Commissioner of Internal Revenue, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term "employer" shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations. The term "employer" shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities.

(b) *Employee.* The term "employee" means any individual in the service of one or more employers for compensation: *Provided, however,* That the term "employee" shall include an employee of a local lodge or division defined as an employer in subsection (a) only if he was in the service of or in the employment relation to a carrier on or after August 29, 1935. An individual shall be deemed to have been in the employment relation to a carrier on August 29, 1935, if (i) he was on that date on leave of absence from his employment, expressly granted to him by the carrier by whom he was employed, or by a duly authorized representative of such carrier, and the grant of such leave of absence will have been established to the satisfaction of the Railroad Retirement Board before July 1947; or (ii) he was in the service of a carrier after August 29, 1935, and before January 1946 in each of six calendar months, whether or not consecutive; or (iii) before August 29, 1935, he did not retire and was not retired or discharged from the service of the last carrier by whom he was employed or its corporate or operating successor, but (A) solely by reason of his physical or mental disability he ceased before August 29, 1935, to be in the service of such carrier and thereafter remained continuously disabled until he attained age sixty-five or until August 1945, or (B) solely for such last stated reason a carrier by whom he was employed before August 29, 1935, or a carrier who is its successor did not on or after August 29, 1935, and before August 1945 call him to return to service, or (C) if he was so called he was solely for such reason unable to render service in six calendar months as provided in clause (ii); or (iv) he was on August 29, 1935, absent from the service of a carrier by reason of a discharge which, within one year after the effective date thereof, was protested, to an appropriate labor representative or to the carrier, as wrongful, and which was followed within ten years of the effective date thereof by his reinstatement in good faith to his former service with all his seniority rights: *Provided,* That an individual shall not be deemed to have been on August 29, 1935, in the employment relation to a carrier if before that date he was granted a pension or gratuity on the basis of which a pension was awarded to him pursuant to section 6 of the Railroad Retirement Act of 1937, or if during the last pay-roll period before August 29, 1935, in which he rendered service to a carrier he was not in the service of an employer, in accordance with subsection (d), with respect to any service in such pay-roll period, or if he could have been in the employment relation to an employer only by reason of his having been, either before or after August 29, 1935, in the service of a local lodge or division defined as an employer in subsection (a).

The term "employee" includes an officer of an employer.

The term "employee" shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

(c) *Employee Representative.* The term "employee representative" means any officer or official representative of a railway labor organization other than a labor organization included in the term "employer" as defined in subsection (a), who before or after June 29, 1937, was in the service of an employer as defined in subsection (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, 44 Stat. 577 (U. S. C., Title 45, c. 18), as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

(d) *Service.* An individual is in the service of an employer whether his service is rendered within or without the United States if (i) he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, or he is rendering professional or technical services and is integrated into the staff of the employer, or he is rendering, on the property used in the employer's operations, other personal services the rendition of which is integrated into the employer's operations, and (ii) he renders such service for compensation: *Provided, however,* That an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway-labor-organization employer, not conducting the principal part of its business in the United States only when he is rendering service to it in the United States; and an individual shall be deemed to be in the service of such a local lodge or division only if (1) all, or substantially all, the individuals constituting its membership are employees of an employer conducting the principal part of its business in the United States; or (2) the headquarters of such local lodge or division is located in the United States; and an individual shall be deemed to be in the service of such a general committee only if (1) he is representing a local lodge or division described in clauses (1) or (2) immediately above; or (2) all, or substantially all, the individuals represented by it are employees of an employer conducting the principal part of its business in the United States; or (3) he acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only such proportion of the remuneration for such service shall be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case such other formula as the Railroad Retirement Board may have prescribed pursuant to subsection (c) of section 1 of the Railroad Retirement Act of 1937 shall be applicable, and if the application of such mileage formula, or such other formula as the Board may prescribe, would result in the compensation of the individual being less than 10 per centum of his remuneration for such service no part of such remuneration shall be regarded as compensation: *Provided further,* That an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United

States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof; and the laws applicable on August 29, 1935, in the place where the service is rendered shall be deemed to have been applicable there at all times prior to that date.

(e) *Compensation.* The term "compensation" means any form of money remuneration earned by an individual for services rendered as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. Such term does not include tips, or the voluntary payment by an employer, without deduction from the remuneration of the employee, of the tax imposed on such employee by section 1500. Compensation which is earned during the period for which the Commissioner shall require a return of taxes under this subchapter to be made and which is payable during the calendar month following such period shall be deemed to have been paid during such period only. For the purpose of determining the amount of taxes under sections 1500 and 1520, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than $3 and (1) such compensation is earned before April 1, 1940, and the taxes thereon under such sections are not paid before July 1, 1940, or (2) such compensation is earned after March 31, 1940.

A payment made by an employer to an individual through the employer's pay roll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. An employee shall be deemed to be paid, "for time lost" the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost.

(f) *United States.* The term "United States" when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.

(g) *Company.* The term "company" includes corporations, associations, and joint-stock companies.

(h) *Carriers.* The term "carrier" means an express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act.

(i) *Person.* The term "person" means an individual, a partnership, an association, a joint-stock company, or a corporation. (Sec. 1532, I. R. C., as amended by sec. 3, Act of June 11, 1940, 54 Stat. 264; sec. 1, Act of Aug. 13, 1940, 54 Stat. 785; sec. 27 (a), Act of Oct. 10, 1940, 54 Stat. 1101; sec. 14, Act of Apr. 8, 1942, 56 Stat. 209; secs. 1, 3 (e), (f), Act of July 31, 1946, 60 Stat. 722, 724, 725)

SECTION 3797 (a) AND (b) OF THE INTERNAL REVENUE CODE

DEFINITIONS

(a) When used in this title (Internal Revenue Code) * * *

* * * * *

(2) *Partnership.* * * * The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation * * *.

(3) *Corporation.* The term "corporation" includes associations, joint-stock companies, and insurance companies.

* * * * *

(10) *State.* The word "State" shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(12) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

(13) *Collector.* The term "collector" means collector of internal revenue.

(14) *Taxpayer.* The term "taxpayer" means any person subject to a tax imposed by this title.

* * * * * *

(b) *Includes and including.* The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

§ 411.201 *General definitions and use of terms.* As used in the regulations in this part:

(a) The terms defined in the above provisions of law shall have the meanings so assigned to them.

(b) "Railroad Retirement Tax Act" means subchapter B of chapter 9 of the Internal Revenue Code, as amended.

(c) "Internal Revenue Code" means the act approved February 10, 1939 (53 Stat., Part 1), entitled "An act to consolidate and codify the internal revenue laws of the United States", as amended.

(d) "Act" means the Railroad Retirement Tax Act, as defined in this section.

(e) "Carriers Taxing Act of 1937" means the act approved June 29, 1937 (50 Stat. 435), as amended.

(f) "Railway Labor Act" means the act approved May 20, 1926 (44 Stat. 577), as amended.

(g) "Federal Insurance Contributions Act" means subchapter A of chapter 9 of the Internal Revenue Code, as amended.

(h) "Social Security Act" means the act approved August 14, 1935 (49 Stat. 620), as amended.

(i) "Railroad Retirement Act of 1937" means the act approved June 24, 1937 (50 Stat. 307), as amended.

(j) "Tax" means the employers' tax, the employees' tax, or the employee representatives' tax, as respectively defined in this section, or both the employers' tax and the employees' tax.

(k) "Employers' tax" means the tax imposed by section 1520 of the act with respect to compensation paid after December 31, 1948, for services rendered after December 31, 1946, except that (1) such term when used in Subparts F and I means the tax imposed by section 1520 of the act in force after December 31, 1946, with respect to compensation paid after December 31, 1948, for services rendered after December 31, 1936, and (2) such term when used in Subparts G and H means the tax imposed by section 1520 of the act in force before, on, or after January 1, 1947, with respect to compensation paid after March 31, 1939, for services rendered after December 31, 1936, or the tax imposed by section 3 of the Carriers Taxing Act of 1937 with respect to compensation paid before April 1, 1939, for services rendered after December 31, 1936.

(l) "Employees' tax" means the tax imposed by section 1500 of the act with respect to compensation paid after December 31, 1948, for services rendered after December 31, 1946, except that (1) such term when used in subparts F and I means the tax imposed by section 1500 of the act in force after December 31, 1946, with respect to compensation paid after December 31, 1948, for services rendered after December 31, 1946, or the tax imposed by section 1500 of the act in force before January 1, 1947, with respect to compensation paid after December 31, 1948, for services rendered after March 31, 1939, and before January 1, 1947, or the tax imposed by section 2 of the Carriers Taxing Act of 1937 with respect to compensation paid after December 31, 1948, for services rendered after December 31, 1936, and before April 1, 1939, and (2) such term when used in Subparts G and H means the tax imposed by section 1500 of the act in force before, on, or after January 1, 1947, with respect to compensation for services rendered after March 31, 1939, or the tax imposed by section 2 of the Carriers Taxing Act of 1937 with respect to compensation for services rendered after December 31, 1936, and before April 1, 1939.

(m) "Employee representatives' tax" means the tax imposed by section 1510 of the act with respect to compensation paid after December 31, 1948, for services rendered after December 31, 1946, except that such term when used in Subpart H means the tax imposed by section 1510 of the act in force before, on, or after January 1, 1947, with respect to compensation for services rendered after March 31, 1939, or the tax imposed by section 5 of the Carriers Taxing Act of 1937 with respect to compensation for services rendered after December 31, 1936, and before April 1, 1939.

(n) "Employee organization" means a railway labor organization which is not included as an employer under section 1532 (a) of the act.

(o) "Regulations 100" means the regulations approved October 12, 1937 (26 CFR, Part 410), as amended, relating to the employers' tax, employees' tax, and employee representatives' tax under the Carriers Taxing Act of 1937, and such regulations as made applicable to subchapter B of chapter 9 and other provisions of the Internal Revenue Code by Treasury Decision 4885, approved February 11, 1939 (26 CFR, Cum. Supp., p. 5876), together with any amendments to such regulations as so made applicable to the Internal Revenue Code.

(p) "Railroad Retirement Board" means the board established pursuant to section 10 of the Railroad Retirement Act of 1937.

(q) The cross-references in the regulations in this part to other portions of the regulations, when the word "see" is used, are made only for convenience, and shall be given no legal effect.

SECTION 1532 (a) OF THE ACT

EMPLOYER

The term "employer" means any carrier (as defined in subsection (h) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided, however,* That the term "employer" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Commissioner of Internal Revenue, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term "employer" shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other associations, bureaus, agencies or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations. The term "employer" shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities. (Sec. 1532 (a), I. R. C., as amended by sec. 1, Act of Aug. 13, 1940, 54 Stat. 785)

SECTION 1532 (h) OF THE ACT

CARRIER

The term "carrier" means an express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act.

§ 411.202 *Who are employers.* Each of the following persons is an employer within the meaning of the act:

(a) Any carrier, that is, any express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act;

(b) Any company:

(1) Which is directly or indirectly owned or controlled by one or more employers as defined in paragraph (a) of this section, or under common control therewith, and

(2) Which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with:

(i) The transportation of passengers or property by railroad, or

(ii) The receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad;

(c) Any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any employer as defined in paragraph (a) or (b) of this section;

(d) Any railroad association, traffic association, tariff bureau, demurrage bureau, weighing and inspection bureau, collection agency, and any other association, bureau, agency, or organization controlled and maintained wholly or principally by two or more employers as defined in paragraph (a), (b), or (c) of this section and engaged in the performance of services in connection with or incidental to railroad transportation;

(e) Any railway labor organization, national in scope, which has been or may be organized in accordance with the provisions of the Railway Labor Act; and

(f) Any subordinate unit of a national railway-labor-organization employer, that is, any State or National legislative committee, general committee, insurance department, or local lodge or division, of an employer as defined in paragraph (e) of this section, established pursuant to the constitution and bylaws of such employer.

As used in paragraph (b) of this section, the term "controlled" includes direct or indirect control, whether legally enforceable and however exercisable or exercised. The control may be by means of stock ownership, or by agreements, licenses, or any other devices which insure that the operation of the company is in the interests of one or more carriers. It is the reality of the control, however, which is decisive, not its form nor the mode of its exercise.

The term "employer" does not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation which is operated by any other motive power.

The term "employer" does not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities for such mining or supplying of coal, or in any of such activities.

SECTION 1532 (b) OF THE ACT

EMPLOYEE

The term "employee" means any individual in the service of one or more employers for compensation: *Provided, however,* That the term "employee" shall include an employee of a local lodge or division defined as an employer in subsection (a) only if he was in the service of or in the employment relation to a carrier on or after August 29, 1935. An individual shall be deemed to have been in the employment relation to a carrier on August 29, 1935, if (i) he was on that date on leave of absence from his employment, expressly granted to him by the carrier by whom he was employed, or by a duly authorized representative of such carrier, and the grant of such leave of absence will have been established to the satisfaction of the Railroad Retirement Board before July 1947; or (ii) he was in the service of a carrier after August 29, 1935, and before January 1946 in each of six calendar months, whether or not consecutive; or (iii) before August 29, 1935, he did not retire and was not retired or discharged from the service of the last carrier by whom he was employed or its corporate or operating successor, but (A) solely by reason of his physical or mental disability he ceased before August 29, 1935, to be in the service of such carrier and thereafter remained continuously disabled until he attained age sixty-five or until August 1945, or (B) solely for such last stated reason a carrier by whom he was employed before August 29, 1935, or a carrier who is its successor did not on or after August 29, 1935, and before August 1945 call him to return to service, or (C) if he was so called he was solely for such reason unable to render service in six calendar months as provided in clause (ii); or (iv) he was on August 29, 1935, absent from the service of a carrier by reason of a discharge which, within one year after the effective date thereof, was protested, to an appropriate labor representative or to the carrier, as wrongful, and which was followed within ten years of the effective date thereof by his reinstatement in good faith to his former service with all his seniority rights: *Provided,* That an individual shall not be deemed to have been on August 29, 1935, in the employment relation to a carrier if before that date he was granted a pension or gratuity on the basis of which a pension was awarded to him pursuant to section 6 of the Railroad Retirement Act of 1937, or if during the last pay-roll period before August 29, 1935, in which he rendered service to a carrier he was not in the service of an employer, in accordance with subsection (d), with respect to any service in such pay-roll period, or if he could have been in the employment relation to an employer only by reason of his having been, either before or after August 29, 1935, in the service of a local lodge or division defined as an employer in subsection (a).

The term "employee" includes an officer of an employer.

The term "employee" shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple. (Sec. 1532 (b), I. R. C., as amended by sec. 3 (e), Act of July 31, 1946, 60 Stat. 724)

SECTION 1532 (d) OF THE ACT

SERVICE

An individual is in the service of an employer whether his service is rendered within or without the United States if (i) he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, or he is rendering professional or technical services and is integrated into the staff of the employer, or he is rendering, on the property used in the employer's operations, other personal services the rendition of which is integrated into the employer's operations, and (ii) he renders such service for compensation: *Provided, however,* That an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway-labor-organization employer, not conducting the principal part of its business in the United States only when he is rendering service to it in the United States; and an individual shall be deemed to be in the service of such a local lodge or division only if (1) all, or substantially all, the individuals constituting its membership are employees of an employer conducting the principal part of its business in the United States; or (2) the head-

quarters of such local lodge or division is located in the United States; and an individual shall be deemed to be in the service of such a general committee only if (1) he is representing a local lodge or division described in clauses (1) or (2) immediately above; or (2) all, or substantially all, the individuals represented by it are employees of an employer conducting the principal part of its business in the United States; or (3) he acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only such proportion of the remuneration for such service shall be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case such other formula as the Railroad Retirement Board may have prescribed pursuant to subsection (c) of section 1 of the Railroad Retirement Act of 1937 shall be applicable, and if the application of such mileage formula, or such other formula as the Board may prescribe, would result in the compensation of the individual being less than 10 per centum of his remuneration for such service no part of such remuneration shall be regarded as compensation: *Provided further,* That an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof; and the laws applicable on August 29, 1935, in the place where the service is rendered shall be deemed to have been applicable there at all times prior to that date. (Sec. 1532 (d), I. R. C., as amended by sec. 3, Act of June 11, 1940, 54 Stat. 264; sec. 14, Act of Apr. 8, 1942, 56 Stat. 209; sec. 1, Act of July 31, 1946, 60 Stat. 722)

SECTION 1532 (h) OF THE ACT

CARRIER

The term "carrier" means an express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act.

§ 411.203 *Who are employees*—(a) *In general.* Within the meaning of the act, any individual is an employee if he is in the service of one or more employers (as defined in section 1532 (a)) for compensation. An individual is in the service of an employer, with respect to services rendered for compensation, if:

(1) He is subject to the continuing authority of the employer to supervise and direct the manner in which he renders such services; or

(2) He is rendering professional or technical services and is integrated into the staff of the employer; or

(3) He is rendering, on the property used in the employer's operations, other personal services the rendition of which is integrated into the employer's operations.

In order that an individual may be in the service of an employer within the meaning of subparagraph (1) of this paragraph, it is not necessary that the employer actually direct or control the manner in which the services are rendered; it is sufficient if the employer has the right to do so. The right of an employer to discharge an individual is also an important factor indicating that the individual is subject to the continuing authority of the employer to supervise and direct the manner of rendition of the services. Other factors indicating that an individual is subject to the continuing authority of the employer to supervise and direct the manner of rendition of the services are the furnishing of tools and the furnishing of a place to work by the employer to the individual who renders the services.

In general, if an individual is subject to the control or direction of an employer merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not, as to such services, in the service of an employer within the meaning of subparagraph (1) of this paragraph. However, an individual performing services as an independent contractor may be, as to such services, in the service of an employer within the meaning of subparagraph (2) or (3) of this paragraph.

Whether or not an individual is an employee will be determined upon an examination of the particular facts of the case.

If an individual is an employee, it is of no consequence that he is designated as a partner, coadventurer, agent, independent contractor, or otherwise, or that he performs services on a part-time basis. The age of the individual, or the measurement, method, or designation of the remuneration, is immaterial, if he is in fact an employee.

The act makes no distinction between classes or grades of employees. Thus, superintendents, managers, and other superior employees are employees within the meaning of the act. An officer of an employer is an employee, but a director as such is not. A director may be an employee, however, if he performs services other than those required by attendance at and participation in meetings of the board of directors.

In determining whether an individual is an employee with respect to services rendered within the United States, the citizenship or residence of the individual, or the place where the contract of service was entered into, is immaterial.

If an individual performs services for an employer (other than a local lodge or division or a general committee of a railway-labor-organization employer) which does not conduct the principal part of its business within the United States, such individual shall be deemed to be in the service of such employer only to the extent that he performs services for it in the United States. Thus, with respect to services rendered for such employer outside the United States, such individual is not in the service of an employer.

If an individual performs services for an employer (other than a local lodge or division or a general committee of a railway-labor-organization employer) which conducts the principal part of its business within the United States, he is in the service of such employer whether his services are rendered within or without the United States. In the case of an individual, not a citizen or resident of the United States, rendering services in a place outside the United States to an employer which is required under the laws applicable in such place to employ, in whole or in part, citizens or residents thereof, such individual shall not be deemed to be in the service of an employer with respect to services so rendered.

The term "employee" does not include any individual while he is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

(b) *Employees of local lodges or divisions of railway-labor-organization employers.* (1) An individual is in the service of a local lodge or division of a railway-labor-organization employer (see § 411.202 (f)) only if:

(i) All, or substantially all, the individuals constituting the membership of such local lodge or division are employees of an employer conducting the principal part of its business in the United States; or

(ii) The headquarters of such local lodge or division is located in the United States.

(2) An individual in the service of a local lodge or division is not an employee within the meaning of the act unless he was, on or after August 29, 1935, in the service of a carrier (see paragraph (a) of this section) or he was, on August 29, 1935, in the "employment relation" to a carrier.

An individual shall be deemed to have been in the employment relation to a carrier on August 29, 1935, if (i) he was on that date on leave of absence from his employment, expressly granted to him by the carrier by whom he was employed, or by a duly authorized representative of such carrier, and the grant of such leave of absence will have been established to the satisfaction of the Railroad Retirement Board before July 1947; or (ii) he was in the service of a carrier after August 29, 1935, and before January 1946 in each of six calendar months, whether or not consecutive; or (iii) before August 29, 1935, he did not retire and was not retired or discharged from the service of the last carrier by whom he was employed or its corporate or operating successor, but (*a*) solely by reason of his physical or mental disability he ceased before August 29, 1935, to be in the service of such carrier and thereafter remained continuously disabled until he attained age sixty-five or until August 1945, or (*b*) solely for such last stated reason a carrier by whom he was employed before August 29, 1935, or a carrier who is its sucessor did not on or after August 29, 1935, and before August 1945 call him to return to service, or (*c*) if he was so called he was solely for such reason unable to render service in six calendar months as provided in subdivision (ii); or (iv) he was on August 29, 1935, absent from the service of a carrier by reason of a discharge which,

within one year after the effective date thereof, was protested, to an appropriate labor representative or to the carrier, as wrongful, and which was followed within 10 years of the effective date thereof by his reinstatement in good faith to his former service with all his seniority rights. However, an individual shall not be deemed to have been in the employment relation to a carrier on August 29, 1935, if before that date he was granted a pension or gratuity on the basis of which a pension was awarded to him pursuant to section 6 of the Railroad Retirement Act of 1937, or if during the last pay-roll period before August 29, 1935, in which he rendered service to a carrier he was not, with respect to any service in such pay-roll period, in the service of an employer (see paragraph (a) of this section).

(For definition of carrier, see § 411.202 (a)).

(c) *Employees of general committees of railway-labor-organization employers.* An individual is in the service of a general committee of a railway-labor-organization employer (see § 411.202 (f)) only if:

(1) He is representing a local lodge or division described in paragraph (b) (1) of this section; or

(2) All, or substantially all, the individuals represented by such general committee are employees of an employer conducting the principal part of its business in the United States; or

(3) He acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer. In such case, if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only a part of his remuneration for such service shall be regarded as compensation. The part of his remuneration regarded as compensation shall be in the same proportion to his total remuneration as the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case such other formula as the Railroad Retirement Board may have prescribed pursuant to section 1 (c) of the Railroad Retirement Act of 1937 shall be applicable. However, no part of his remuneration for such service shall be regarded as compensation if the application of such mileage formula, or such other formula as the Railroad Retirement Board may have prescribed, would result in his compensation for the service being less than 10 percent of his remuneration for such service.

SECTION 1532 (c) OF THE ACT

EMPLOYEES REPRESENTATIVE

The term "employee representative" means any officer or official representative of a railway labor organization other than a labor organization included in the term "employer" as defined in subsection (a), who before or after June 29, 1937, was in the service of an employer as defined in subsection (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, 44 Stat. 577 (U. S. C., Title 45, c. 18), as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

§ 411.204 *Who are employee representatives.* An employee representative within the meaning of the act is:

(a) Any officer or official representative of a railway labor organization which is not included as an employer under section 1532 (a) of the act who:

(1) Was in the service of an employer either before or after June 29, 1937, and

(2) Is duly authorized and designated to represent employees in accordance with the Railway Labor Act.

(For railway labor organizations which are employers under section 1532 (a) of the act, see § 411.202 (e) and (f).)

(b) Any individual who is regularly assigned to or regularly employed by an employee representative as defined in paragraph (a) of this section, in connection with the duties of such employee representative's office.

In determining whether an individual is an employee representative, his citizenship or residence is material only insofar as those factors may affect the determination of whether he was "in the service of an employer" (see § 411.203 (a)). The age of the individual is immaterial.

SECTION 1532 (e) OF THE ACT

COMPENSATION

The term "compensation" means any form of money remuneration earned by an individual for services rendered as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. Such term does not include tips, or the voluntary payment by an employer, without deduction from the remuneration of the employee, of the tax imposed on such employee by section 1500. Compensation which is earned during the period for which the Commissioner shall require a return of taxes under this subchapter to be made and which is payable during the calendar month following such period shall be deemed to have been paid during such period only. For the purpose of determining the amount of taxes under sections 1500 and 1520, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than $3 and * * * such compensation is earned after March 31, 1940.

A payment made by an employer to an individual through the employer's pay roll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. An employee shall be deemed to be paid, "for time lost" the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost. (Sec. 1532 (e), I. R. C., as amended by sec. 27 (a), Act of Oct. 10, 1940, 54 Stat. 1101; sec. 3 (f), Act of July 31, 1946, 60 Stat. 725)

SECTION 1511 OF THE ACT

DETERMINATION OF COMPENSATION

The compensation of an employee representative for the purpose of ascertaining the tax thereon shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in section 1532 (a).

§ 411.205 *Definition of compensation.* The term "compensation" means all remuneration in money, or in something which may be used in lieu of money (for example, scrip and merchandise orders), which is earned by an individual for services rendered as an employee to one or more employers or as an employee representative. A payment made by an employer to an individual through the employer's pay roll shall be presumed, in the absence of evidence to the contrary, to be compensation for services rendered by such individual as an employee of the employer. Likewise, a payment made by an employee organization to an employee representative through the organization's pay roll shall be presumed, in the absence of evidence to the contrary, to be compensation for services rendered by the employee representative as such.

The term "compensation" is not confined to amounts earned or paid for active service, but includes amounts earned or paid for an identifiable period during which the employee is absent from the active service of the employer and, in the case of an employee representative, amounts earned or paid for an identifiable period during which the employee representative is absent from the active service of the employee organization.

The term "compensation" does not include tips, or the voluntary payment by an employer of the employees' tax without the deduction of such tax from the remuneration of the employee.

(See § 411.207, relating to when compensation is earned. See also §§ 411.301, 411.401, and 411.501, relating to the amount of compensation included for the purpose of determining the employees' tax, the employers' tax, and the employee representatives' tax, respectively. For special provisions relating to the compensation of certain general chairmen or assistant general chairmen of a general committee of a railway-labor-organization employer, see § 411.203 (c).)

§ 411.206 *Items included as compensation.* The following items are included in compensation with respect to employees and in analogous situations with respect to employee representatives:

(a) Salaries, wages, commissions, fees, bonuses, and any other remuneration in money or in something which may be used in lieu of money. The name by which remuneration is designated, the amount, and the basis upon which it is paid are immaterial. It may be paid upon the basis of piece work, a percentage of profits, or on a daily, hourly, weekly, monthly, annual, or other basis.

(b) Sick pay, vacation allowances, or back pay upon reinstatement after wrongful discharge.

(c) Amounts paid to an employee for an identifiable period of absence from the active service of the employer on account of personal injury. If a payment is made to an employee with respect to a personal injury and includes pay for an identifiable period of absence from active service, the total payment shall be deemed to be paid for such period of absence from active service unless, at the time of payment, a part of such payment is specifically apportioned to factors other than absence from active service, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for such period of absence from active service.

(d) Amounts paid to an employee for loss of earnings during an identifiable period as the result of the displacement of the employee to a less remunerative position or occupation.

(e) Amounts paid as allowance or reimbursement for traveling or other expenses incurred in the business of the employer to the extent of the excess of such amounts; if any, over such expenses actually incurred and accounted for by the employee to the employer.

(f) Generally, premiums paid by an employer on a policy of life insurance covering the life of an employee, if the employer is not a beneficiary under the policy. However, premiums paid by an employer on policies of group life insurance covering the lives of his employees are not compensation, if the employee has no option to take the amount of the premiums instead of accepting the insurance and has no equity in the policy (such as the right of assignment or the right to the surrender value on termination of his employment).

(g) Amounts deducted from the compensation of an employee, including the amount of the employees' tax deducted pursuant to section 1501, constitute compensation paid to the employee.

(h) Payments made by an employer into a stock bonus, pension, or profit-sharing fund, if such payments inure to the exclusive benefit of the employee and may be withdrawn by the employee at any time, or upon resignation or dismissal, or if the contract for services requires such payment as part of the remuneration. Whether or not under other circumstances such payments constitute compensation depends upon the particular facts of each case.

§ 411.207 *Compensation; when earned.* Compensation is earned when an employee, or employee representative, as such, performs services for which he is paid or for which there is a present or future obligation to pay, regardless of the time at which payment is made or is to be made. Remuneration paid for any period of absence from active service shall be deemed to have been earned in the month in which such absence from service occurred. A payment made by an employer or employee organization to an individual through the pay roll of the employer or employee organization for a period commencing after December 31, 1946, shall be presumed, in the absence of evidence to the contrary, to be for services rendered by such individual in the period covered by the pay roll and, thus, to have been earned in such period. (See §§ 411.205 and 411.206.)

§ 411.208 *Compensation; when paid.* Compensation is deemed to be paid:

(a) When it is actually paid; or

(b) When it is constructively paid, that is, credited to the account of or set apart for an employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and made available to him so that it may be drawn upon at any time and its payment brought within his own control and disposition; or

(c) Within the period for which a return of tax is required to be made, if the compensation was earned during such period and is payable during the calendar month following such period. (See § 411.601, relating to periods for which a return of tax is required, and § 411.207, relating to when compensation is earned.)

Example (1). During September 1950 (which falls in a period for which a return of tax is required to be made), A is employed by employer X at a monthly salary of $200, one-half of which is payable on the 25th of the month in which the services are performed and the other half on the 10th of the following month. Thus on October 10, A is paid $100 which was earned during September. That $100 is deemed to have been paid to A in September and should be included in X's return for the quarter July, August, and September.

Example (2). During September 1949 (which falls in a period for which a return of tax is required to be made), A is employed by employer X on the basis of a 6-day week at a weekly salary of $60 payable on Saturday of each week. Thus on Saturday, October 1, 1949, A is paid $60 for services performed during the week September 26, 1949, to October 1, 1949, inclusive. In such case five-sixths of that amount or $50 is deemed to have been paid in September and should be included in X's return filed for the period in which September falls. The balance of A's salary for that week ($10) should be included in the return filed for the period in which October 1949 falls. (But see § 411.601 (b), relating to period covered by return where employer pays on a weekly basis.)

SUBPART C—EMPLOYEES' TAX

SECTION 1500 OF THE ACT

RATE OF TAX

In addition to other taxes, there shall be levied, collected, and paid upon the income of every employee a tax equal to the following percentages of so much of the compensation, paid to such employee after December 31, 1946, for services rendered by him after such date, as is not in excess of $300 for any calendar month:

1. With respect to compensation paid during the calendar years 1947 and 1948, the rate shall be 5¾ per centum;

2. With respect to compensation paid during the calendar years 1949, 1950, and 1951, the rate shall be 6 per centum;

3. With respect to compensation paid after December 31, 1951, the rate shall be 6¼ per centum. (Sec. 1500, I. R. C., as amended by sec. 3 (a), Act of July 31, 1946, 60 Stat. 723.)

SECTION 1532 (e) OF THE ACT

COMPENSATION

* * * For the purpose of determining the amount of taxes under sections 1500 * * *, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than $3 and * * * such compensation is earned after March 31, 1940.

* * * * *

(Sec. 1532 (e), I. R. C., as amended by sec. 27 (a), Act of Oct. 10, 1940, 54 Stat. 1101)

§ 411.301 *Measure of employees' tax*—(a) *General rule.* Except as provided in paragraph (b) of this section, the employees' tax with respect to compensation paid after December 31, 1948, for services rendered after December 31, 1946, is measured by the amount of such compensation paid to an individual for services rendered as an employee to one or more employers, excluding, however, the amount of compensation in excess of $300 which is paid after December 31, 1946, to the employee for services rendered during any one calendar month after 1946. (See §§ 411.205 to 411.208, relating to compensation.)

(b) *Exception; employee of local lodge or division of railway-labor-organization employer.* If the amount of compensation earned in any calendar month by an individual as an employee in the service of a local lodge or division of a railway-labor-organization employer is less than $3, such amount shall be disregarded for the purpose of determining the employees' tax.

§ 411.302 *Rates and computation of employees' tax.* The rates of employees' tax applicable for the respective calendar years are as follows:

	Percent
Compensation paid during the calendar years 1949, 1950, 1951	6
Compensation paid during the calendar year 1952 and subsequent calendar years	6¼

The employees' tax is computed by applying to the amount of the employee's compensation with respect to which the employees' tax is imposed the rate for the calendar year in which the compensation is paid.

SECTION 1501 (a) OF THE ACT

DEDUCTION OF TAX FROM COMPENSATION

Requirement. The tax imposed by section 1500 shall be collected by the employer of the taxpayer by deducting the amount of the tax from the compensation of the employee as and when paid. If an employee is paid compensation after December 31, 1946, by more than one employer for services rendered during any calendar month after 1946 and the aggregate of such compensation is in excess of $300, the tax to be deducted by each employer other than a subordinate unit of a national railway-labor-organization employer from the compensation paid by him to the employee with respect to such month shall be that proportion of the tax with respect to such compensation paid by all such employers which the compensation paid by him after December 31, 1946, to the employee for services rendered during such month bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than $300, each subordinate unit of a national railway-labor-organization employer shall deduct such proportion of any additional tax as the compensation paid by such employer after December 31, 1946, to such employee for services rendered during such month bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services ren-

dered during such month. (Sec. 1501 (a), I. R. C., as amended by sec. 3 (b), Act of July 31, 1946, 60 Stat. 723)

SECTION 3661 OF THE INTERNAL REVENUE CODE

ENFORCEMENT OF LIABILITY FOR TAXES COLLECTED

Whenever any person is required to collect or withhold any internal-revenue tax from any other person and to pay such tax over to the United States, the amount of tax so collected or withheld shall be held to be a special fund in trust for the United States. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

§ 411.303 *Collection of, and liability for, employees' tax*—(a) *Collection; general rule.* The employer shall collect from each of his employees the employees' tax imposed with respect to the compensation of the employee by deducting or causing to be deducted the amount of such tax from the compensation subject to the tax as and when such compensation is paid. (As to the measure of the employees' tax, see §411.301.)

(b) *Collection; aggregate monthly compensation in excess of $300 paid by two or more employers.* If an employee is paid compensation after December 31, 1946, by two or more employers for services rendered during any one calendar month after 1946, and if the aggregate compensation paid to such employee after December 31, 1946, by all employers for services rendered during such month is in excess of $300, the employees' tax to be deducted by each employer from the compensation as and when paid by him to the employee shall be determined as follows:

(1) If such compensation is paid by two or more employers, none of whom is a subordinate unit of a national railway-labor-organization employer (see § 411.202 (f)), each employer shall deduct the employees' tax with respect to that proportion of $300 of compensation which the compensation paid after December 31, 1946, by such employer to the employee for the month bears to the total compensation paid after December 31, 1946, to such employee by all employers for that month (see example (1), below);

(2) If such compensation is paid by two or more employers, each of which is a subordinate unit of a national railway-labor-organization employer, each subordinate unit shall deduct the employees' tax with respect to that proportion of $300 of compensation which the compensation paid after December 31, 1946, by such subordinate unit to the employee for the month bears to the total compensation paid after December 31, 1946, to such employee by all such subordinate units for that month;

(3) If such compensation is paid by two or more employers, only one of whom is an employer other than a subordinate unit of a national railway-labor-organization employer, and if the compensation paid after December 31, 1946, to the employee by the employer other than a subordinate unit equals or exceeds $300 for the month, then no employees' tax shall be deducted by any such subordinate unit from the compensation paid by it after December 31, 1946, to such employee for that month, and the employer other than a subordinate unit shall deduct the employees' tax with respect to $300 of compensation paid by him after December 31, 1946, to such employee for that month (see example (2), below);

(4) If such compensation is paid by two or more employers other than a subordinate unit of a national railway-labor-organization employer and by one or more subordinate units of a national railway - labor - organization employer, and if the total compensation paid after December 31, 1946, to the employee by the employers other than a subordinate unit equals or exceeds $300 for the month, then no employees' tax shall be deducted by any such subordinate unit from the compensation paid by it after December 31, 1946, to such employee for that month, and each employer other than a subordinate unit shall deduct the employees' tax with respect to that proportion of $300 of compensation which the compensation paid after December 31, 1946, by such employer to the employee for the month bears to the total compensation paid after December 31, 1946, to such employee by all such employers other than a subordinate unit for that month (see example (3), below);

(5) If such compensation is paid by two or more employers, only one of whom is a subordinate unit of a national railway-labor-organization employer, and if the total compensation paid after December 31, 1946, to the employee by all employers other than the subordinate unit is less than $300 for the month, then each employer other than the subordinate unit shall deduct the employees' tax with respect to the full amount of compensation paid by him after December 31, 1946, to such employee for that month, and the subordinate unit of a national railway - labor - organization employer shall deduct the employees' tax with respect to the remainder of $300 of compensation less the total compensation paid after December 31, 1946, to such employee for that month by all other employers (see example (4), below); or

(6) If such compensation is paid by one or more employers other than a subordinate unit of a national railway-labor-organization employer and by two or more subordinate units of a national railway - labor - organization employer, and if the total compensation paid after December 31, 1946, to the employee by all employers other than the subordinate units is less than $300 for the month, then each employer other than the subordinate units shall deduct the employees' tax with respect to the full amount of compensation paid by him after December 31, 1946, to such employee for that month, and each subordinate unit of a national railway-labor-organization employer shall deduct the employees' tax with respect to that proportion of the remainder of $300 of compensation less the total compensation paid after December 31, 1946, to such employee for the month by all employers other than the subordinate units which the compensation paid after December 31, 1946, by such subordinate unit to the employee for that month bears to the total compensation paid after December 31, 1946, to such employee by all such subordinate units for that month (see example (5), below).

(See § 411.301 (b), which provides that for the purpose of determining the employees' tax certain nominal compensation earned by an employee of a local lodge or division of a railway-labor-organization employer shall be disregarded.)

The application of certain of the foregoing principles may be illustrated by the following examples:

Example (1). A, an employee, renders services during January 1949 for employers X, Y, and Z, none of whom is a subordinate unit of a national railway-labor-organization employer. For such services A is paid in the month or thereafter compensation of $100 by X, $100 by Y, and $200 by Z, or an aggregate of $400 for the month. In such case X pays one-fourth of A's aggregate compensation for the month, Y pays one-fourth, and Z pays one-half. X and Y, therefore, are each required to deduct the employees' tax with respect to one-fourth of $300, or $75, and Z is required to deduct the employees' tax with respect to one-half of $300, or $150.

Example (2). A, an employee, renders services during January 1949 for employer X, an employer other than a subordinate unit of a national railway-labor-organization employer, and for employers Y and Z; each of which is a subordinate unit of a national railway-labor-organization employer. For such services A is paid in the month or thereafter compensation of $300 by X, $50 by Y, and $25 by Z. Since the compensation paid A for the month by X equals $300, neither Y nor Z is required to deduct any employees' tax from the compensation paid by them to A for the month; and X is required to deduct the employees' tax with respect to the full $300 paid by him to A for the month.

Example (3). A, an employee, renders services during January 1949 for employers W and X, each of whom is an employer other than a subordinate unit of a national railway-labor-organization employer, and for employers Y and Z, each of which is a subordinate unit of a national railway-labor-organization employer. For such services A is paid in the month or thereafter compensation of $200 by W and $200 by X, or an aggregate of $400 for the month, and compensation of $50 by Y and $50 by Z. Since the aggregate compensation paid A for the month by W and X is in excess of $300, neither Y nor Z is required to deduct any employees' tax from the compensation paid by them to A for the month. Of the aggregate compensation of $400 paid A for the month by W and X, W pays one-half and X pays one-half. W and X, therefore, are each required to deduct the employees' tax with respect to one-half of $300, or $150.

Example (4). A, an employee, renders services during January 1949 for employer X, an employer other than a subordinate unit of a national railway-labor-organization employer, and for employer Y, a subordinate unit of a national railway-labor-organization employer. For such services A is paid in the month or thereafter compensation of $250 by X and $100 by Y. In such case X is required to deduct the employees' tax with respect to the full $250 paid by him to A for the month; and Y is required to deduct the employees' tax only with respect to $50 ($300 minus $250 paid by X).

Example (5). A, an employee, renders services during January 1949 for employers W and X, each of whom is an employer other than a subordinate unit of a national railway-labor-organization employer, and for

employers Y and Z, each of which is a subordinate unit of a national railway-labor-organization employer. For such services A is paid in the month or thereafter compensation of $140 by W, $100 by X, $50 by Y, and $100 by Z. In such case W and X are each required to deduct the employees' tax with respect to the full amount paid by them to A for the month, that is, W with respect to $140 and X with respect to $100; and Y and Z are each required to deduct the employees' tax with respect to their proportionate share of $60 ($300 minus $240 paid by W and X). Of the aggregate compensation of $150 paid by Y and Z, $50, or one-third, was paid by Y, and $100, or two-thirds, was paid by Z. In such case Y is required to deduct the employees' tax with respect to one-third of $60, or $20, and Z is required to deduct the employees' tax with respect to two-thirds of $60, or $40.

(c) *Undercollections or overcollections.* Any undercollection or overcollection of employees' tax resulting from the employer's inability to determine, at the time compensation is paid, the correct amount of compensation with respect to which the deduction should be made shall be corrected in accordance with the provisions of §§ 411.701 and 411.702, relating to adjustments of employees' tax, and Subpart H, relating to refunds, credits, and abatements.

(d) *When fractional part of cent may be disregarded.* In collecting the employees' tax, the employer shall disregard any fractional part of a cent of such tax unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(e) *Employer's liability.* The employer is liable for the employees' tax with respect to compensation paid by him, whether or not collected from the employee. If the employer deducts less than the correct amount of employees' tax or fails to deduct any part of the tax, he is nevertheless liable for the correct amount of the tax. Until collected from him, the employee is also liable for the employees' tax. Any employees' tax collected by or on behalf of an employer is a special fund in trust for the United States. An employer is not liable to any person for the amount of the employees' tax deducted by him and paid to the collector.

Section 2707 of the Internal Revenue Code, provides severe penalties for a willful failure to pay, collect, or truthfully account for and pay over, the employees' tax or for a willful attempt in any manner to evade or defeat the tax. Such penalties may be incurred by any person, including the employer, and any officer or employee of a corporate employer, or member or employee of any other employer, who as such employer, officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SUBPART D—EMPLOYERS' TAX

SECTION 1520 OF THE ACT

RATE OF TAX

In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ, equal to the following percentages of so much of the compensation, paid by such employer after December 31, 1946, for services rendered to him after December 31, 1936, as is, with respect to any employee for any calendar month, not in excess of $300: *Provided, however,* That if an employee is paid compensation after December 31, 1946, by more than one employer for services rendered during any calendar month after 1936, the tax imposed by this section shall apply to not more than $300 of the aggregate compensation paid to such employee by all such employers after December 31, 1946, for services rendered during such month, and each employer other than a subordinate unit of a national railway-labor-organization employer shall be liable for that proportion of the tax with respect to such compensation paid by all such employers which the compensation paid by him after December 31, 1946, to the employee for services rendered during such month bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than $300, each subordinate unit of a national railway-labor-organization employer shall be liable for such proportion of any additional tax as the compensation paid by such employer after December 31, 1946, to such employee for services rendered during such month bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month:

1. With respect to compensation paid during the calendar years 1947 and 1948, the rate shall be 5¾ per centum;
2. With respect to compensation paid during the calendar years 1949, 1950, and 1951, the rate shall be 6 per centum;
3. With respect to compensation paid after December 31, 1951, the rate shall be 6¼ per centum. (See 1520, I. R. C., as amended by sec. 3 (d), Act of July 31, 1946, 60 Stat. 724)

SECTION 1532 (e) OF THE ACT

COMPENSATION

* * * For the purpose of determining the amount of taxes under sections * * * 1520, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than $3 and * * * such compensation is earned after March 31, 1940.

* * * * * —

(Sec. 1532 (e), I. R. C., as amended by sec. 27 (a), Act of Oct. 10, 1940, 54 Stat. 1101)

§ 411.401 *Measure of employers' tax—*(a) *General rule.* Except as provided in paragraphs (b) and (c) of this section, the employers' tax with respect to compensation paid after December 31, 1946, for services rendered after December 31, 1946, is measured by the amount of such compensation paid by an employer to his employees, excluding, however, the amount of compensation in excess of $300 which is paid after December 31, 1946, by the employer to any employee for services rendered during any one calendar month after 1946. (See §§ 411.205 to 411.208, relating to compensation.)

(b) *Aggregate monthly compensation in excess of $300 paid by two or more employers.* If an employee is paid compensation after December 31, 1946, by two or more employers for services rendered during any one calendar month after 1946, and if the aggregate compensation paid to such employee after December 31, 1946, by all employers for services rendered during such month is in excess of $300, the measure of the employers' tax of each employer with respect to the compensation paid by him after December 31, 1946, to the employee for the month shall be determined as follows:

(1) If such compensation is paid by two or more employers, none of whom is a subordinate unit of a national railway-labor-organization employer (see § 411.202 (f)), the measure of the employers' tax of each employer shall be that proportion of $300 which the compensation paid after December 31, 1946, by such employer to the employee for the month bears to the total compensation paid after December 31, 1946, to such employee by all employers for that month;

(2) If such compensation is paid by two or more employers, each of which is a subordinate unit of a national railway-labor-organization employer, the measure of the employers' tax of each subordinate unit shall be that proportion of $300 which the compensation paid after December 31, 1946, by such subordinate unit to the employee for the month bears to the total compensation paid after December 31, 1946, to such employee by all such subordinate units for that month;

(3) If such compensation is paid by two or more employers, only one of whom is an employer other than a subordinate unit of a national railway-labor-organization employer, and if the compensation paid after December 31, 1946, to the employee by the employer other than a subordinate unit equals or exceeds $300 for the month, then no subordinate unit shall be liable for any employers' tax with respect to the compensation paid by it after December 31, 1946, to such employee for that month, and the measure of the employers' tax of the employer other than a subordinate unit with respect to the compensation paid by him after December 31, 1946, to such employee for that month shall be $300;

(4) If such compensation is paid by two or more employers other than a subordinate unit of a national railway-labor-organization employer and by one or more subordinate units of a national railway-labor-organization employer, and if the total compensation paid after December 31, 1946, to the employee by the employers other than a subordinate unit equals or exceeds $300 for the month, then no subordinate unit shall be liable for any employers' tax with respect to the compensation paid by it after December 31, 1946, to such employee for that month, and the measure of the employers' tax of each employer other than a subordinate unit shall be that proportion of $300 which the compensation paid after December 31, 1946, by such employer to the employee for the month bears to the total compensation paid after December 31, 1946, to such employee by all such employers other than a subordinate unit for that month;

(5) If such compensation is paid by two or more employers, only one of whom is a subordinate unit of a national railway-labor-organization employer, and if the total compensation paid after December 31, 1946, to the employee by all employers other than the subordinate unit is less than $300 for the month, then the measure of the employers' tax of each employer other than the subordinate unit shall be the full amount of compensation

paid by him after December 31, 1946, to such employee for that month, and the measure of the employers' tax of the subordinate unit of a national railway-labor-organization employer shall be the remainder of $300 less the total compensation paid after December 31, 1946, to such employee for that month by all other employers; or

(6) If such compensation is paid by one or more employers other than a subordinate unit of a national railway-labor-organization employer and by two or more subordinate units of a national railway-labor-organization employer, and if the total compensation paid after December 31, 1946, to the employee by all employers other than the subordinate units is less than $300 for the month, then the measure of the employers' tax of each employer other than the subordinate units shall be the full amount of compensation paid by him after December 31, 1946, to such employee for that month, and the measure of the employers' tax of each subordinate unit of a national railway-labor-organization employer, shall be that proportion of the remainder of $300 less the total compensation paid after December 31, 1946, to such employee for the month by all employers other than the subordinate units which the compensation paid after December 31, 1946, by such subordinate unit to the employee for that month bears to the total compensation paid after December 31, 1946, to such employee by all such subordinate units for that month.

(See paragraph (c) of this section, which provides that for the purpose of determining the employers' tax certain nominal compensation earned by an employee of a local lodge or division of a railway-labor-organization employer shall be disregarded.)

For illustrations of the application of certain of the foregoing principles, see the examples, illustrating the analogous principles with respect to the deduction of employees' tax, set forth in § 411.303 (b) of the regulations in this part.

(c) *Nominal monthly compensation earned by employee of local lodge or division of railway-labor-organization employer.* If the amount of compensation earned in any calendar month by an individual as an employee in the service of a local lodge or division of a railway-labor-organization employer is less than $3, such amount shall be disregarded for the purpose of determining the employers' tax.

(d) *Underpayments or overpayments.* Any underpayment or overpayment of employers' tax resulting from the employer's inability to determine, at the time such tax is paid, the correct amount of compensation with respect to which the tax should be paid shall be corrected in accordance with the provisions of §§ 411.701 and 411.703, relating to adjustments of employers' tax, and Subpart H, relating to refunds, credits, and abatements.

§ 411.402 *Rates and computation of employers' tax.* The rates of employers' tax applicable for the respective calendar years are as follows:

	Percent
Compensation paid during the calendar years 1949, 1950, 1951	6
Compensation paid during the calendar year 1952 and subsequent calendar years	6¼

The employers' tax is computed by applying to the amount of compensation with respect to which the employers' tax is imposed the rate for the calendar year in which the compensation is paid.

SUBPART E—EMPLOYEE REPRESENTATIVES' TAX

SECTION 1510 OF THE ACT

RATE OF TAX

In addition to other taxes, there shall be levied, collected, and paid upon the income of each employee representative a tax equal to the following percentages of so much of the compensation, paid to such employee representative after December 31, 1946, for services rendered by him after such date, as is not in excess of $300 for any calendar month:

1. With respect to compensation paid during the calendar years 1947 and 1948, the rate shall be 11½ per centum;

2. With respect to compensation paid during the calendar years 1949, 1950, and 1951, the rate shall be 12 per centum;

3. With respect to compensation paid after December 31, 1951, the rate shall be 12½ per centum. (Sec. 1510, I. R. C., as amended by sec. 3 (c), Act of July 31, 1946, 60 Stat. 723)

§ 411.501 *Measure of employee representatives' tax.* The employee representatives' tax with respect to compensation paid after December 31, 1946, for services rendered after December 31, 1946, is measured by the amount of such compensation paid to an individual for services rendered as an employee representative, excluding, however, the amount of compensation in excess of $300 which is paid after December 31, 1946, to the employee representative for services rendered during any one calendar month after 1946. (See §§ 411.205 to 411.208, relating to compensation.)

§ 411.502 *Rates and computation of employee representatives' tax.* The rates of employee representatives' tax applicable for the respective calendar years are as follows:

	Percent
Compensation paid during the calendar years 1949, 1950, 1951	12
Compensation paid during the calendar year 1952 and subsequent calendar years	12½

The employee representatives' tax is computed by applying to the amount of compensation with respect to which the employee representatives' tax is imposed the rate for the calendar year in which the compensation is paid.

SUBPART F—RETURNS, PAYMENT OF TAX, AND RECORDS

SECTION 1530 OF THE ACT

COLLECTION AND PAYMENT OF TAXES

(a) *Administration.* The taxes imposed by this subchapter shall be collected by the Bureau of Internal Revenue and shall be paid into the Treasury of the United States as internal-revenue collections.

(b) *Time and manner of payment.* The taxes imposed by this subchapter shall be collected and paid quarterly or at such other times and in such manner and under such conditions not inconsistent with this subchapter as may be prescribed by the Commissioner with the approval of the Secretary.

* * * * *

(d) *Fractional parts of a cent.* In the payment of any tax under this subchapter, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

SECTION 1536 OF THE ACT

OTHER LAWS APPLICABLE

All provisions of law, including penalties, applicable with respect to any tax imposed by section 2700 or section 1800, and the provisions of section 3661, insofar as applicable and not inconsistent with the provisions of this subchapter, shall be applicable with respect to the taxes imposed by this subchapter. (Sec. 1536, I. R. C., as amended by sec. 1, Act of Mar. 17, 1941, 55 Stat. 44)

SECTION 2709 OF THE INTERNAL REVENUE CODE, MADE APPLICABLE BY SECTION 1536 OF THE ACT

RECORDS, STATEMENTS, AND RETURNS

Every person liable to any tax imposed by this subchapter, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

SECTION 2701 OF THE INTERNAL REVENUE CODE, MADE APPLICABLE BY SECTION 1536 OF THE ACT

RETURNS

Every person liable for the tax * * * shall make * * * returns under oath * * * to the collector for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

SECTION 3603 OF THE INTERNAL REVENUE CODE

NOTICE REQUIRING RECORDS, STATEMENTS, AND SPECIAL RETURNS

Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

SECTION 3632 OF THE INTERNAL REVENUE CODE

AUTHORITY TO ADMINISTER OATHS, TAKE TESTIMONY, AND CERTIFY

(a) *Internal Revenue personnel—(1) Persons in charge of administration or internal revenue laws generally.* Every collector, deputy collector, internal revenue agent, and internal revenue officer assigned to duty under an internal revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

(2) *Persons in charge of exports and drawbacks.* Every collector of internal revenue and every superintendent of exports and drawbacks is authorized to administer such oaths and to certify to such papers as may be necessary under any regulation prescribed under the authority of the internal revenue laws.

(b) *Others.* Any oath or affirmation required or authorized by any internal revenue law or by any regulations made under authority thereof may be administered by any

person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered, or by any consular officer of the United States. This subsection shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

SECTION 1630 (a) OF THE INTERNAL REVENUE CODE

VERIFICATION OF RETURNS, ETC.

Power of Commissioner to require. The Commissioner, under regulations prescribed by him with the approval of the Secretary, may require that any return, statement, or other document required to be filed under this chapter shall contain or be verified by a written declaration that it is made under the penalties of perjury, and such declaration shall be in lieu of any oath otherwise required. (Sec. 1630 (a), I. R. C., as added by sec. 2 (a), Current Tax Payment Act of 1943, 57 Stat. 126)

SECTION 3612 (a), (b), AND (c) OF THE INTERNAL REVENUE CODE

RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR

(a) *Authority of Collector.* If any person fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise.

(b) *Authority of Commissioner.* In any such case the Commissioner may, from his own knowledge and from such information as he can obtain through testimony or otherwise:

(1) *To make return.* Make a return, or

(2) *To amend collector's return.* Amend any return made by a collector or deputy collector.

(c) *Legal status of returns.* Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

SECTION 3614 (a) OF THE INTERNAL REVENUE CODE

EXAMINATION OF BOOKS AND WITNESSES

To determine liability of the taxpayer. The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

SECTION 2702 (a) OF THE INTERNAL REVENUE CODE, MADE APPLICABLE BY SECTION 1536 OF THE ACT

PAYMENT OF TAX

Date of payment. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector for the district in which is located the principal place of business, at the time fixed * * * for filing the return.

§ 411.601 *Quarterly returns of tax—*(a) *In general.* Every employer shall make a tax return on Form CT–1 for the first quarter after December 31, 1948, within which taxable compensation is paid to his employee or employees for services rendered after December 31, 1936, and for each subsequent quarter (whether or not taxable compensation is paid therein) until he files a final return as required by the provisions of § 411.602. Every employee representative shall make a tax return on Form CT–2 for the first quarter after December 31, 1948, within which he is paid taxable compensation for services rendered after December 31, 1946, as an employee representative, and for each subsequent quarter (whether or not he is paid taxable compensation therein) until he files a final return as required by the provisions of § 411.602. One original and a duplicate of each return on Form CT–1 or CT–2 shall be filed with the collector. For purposes of returns under the act, the quarters shall each be three calendar months as follows: (1) From January 1 to March 31, both dates inclusive; (2) from April 1 to June 30, both dates inclusive: (3) from July 1 to September 30, both dates inclusive; and (4) from October 1 to December 31, both dates inclusive.

Except as provided in paragraph (b) of this section, taxable compensation shall be reported in the tax return for the period in which it is deemed under § 411.208 to be paid, unless under such section such compensation may be deemed to be paid in more than one tax-return period, in which case it shall be reported only in the return for the first period in which it is deemed to be paid.

(b) *Returns of employers required by State law to pay compensation on weekly basis.* If any employer is required by the laws of any State to pay compensation weekly, the return of tax with respect to such compensation may, at the election of such employer, cover all pay-roll weeks which, or the major part of which, fall within the period for which a return of tax is required by paragraph (a) of this section. This provision shall not apply, however, to any pay-roll week which falls in two calendar years. Any employer who elects to file a return as provided in this paragraph shall notify the Commissioner in writing of such election and shall include therein a statement setting forth the facts which entitle him to make the election. Such notice shall be in duplicate and shall be attached to the original and duplicate of the return for the first period to which such election applies. Any election so made shall be binding upon the taxpayer with respect to all returns subsequently made by him until the Commissioner authorizes or directs the taxpayer to make a return on a different basis. For the purpose of determining the time when compensation is deemed to be paid in accordance with § 411.208 (c), and of determining the due date of a return in accordance with § 411.605, the calendar month following the period covered by the return of an employer making such election is the same calendar month which would be determinative for such purposes if the employer had not made the election.

An election made by a taxpayer, pursuant to the provisions of § 410.501 (b) (article 501 (b) of Regulations 100), which is in force and effect at the time the taxpayer makes his first return under the regulations in this part shall satisfy the requirements of this paragraph with respect to the making of an election and shall be binding upon the taxpayer with respect to all returns made by him under the regulations in this part until the Commissioner authorizes or directs the taxpayer to make a return on a different basis.

Example. Employer X is required by State law to pay his employees within six days after the compensation is earned. In compliance with the State law, employer X, for services rendered to him for the period June 27 to July 2, 1949, pays his employees on the last-named date. June 1949 is the last month of a period for which a return of tax is required to be filed. Employer X may elect to include in the return required under paragraph (a) of this section for the period April 1 to June 30, 1949, the compensation paid to his employees for the week of June 27 to July 2, 1949, inclusive, although the compensation for July 1 and 2 falls within another period for which a return is required under paragraph (a) of this section. If, in this example, the pay-roll week ended on July 5, 1949, the compensation paid for the pay-roll week June 29 to July 5 would be included in the return period in which July falls although the compensation earned for June 29 and 30 fell in a prior return period under the general rule.

§ 411.602 *Final returns.* The last return on Form CT–1 for any employer who ceases to pay taxable compensation shall be marked "Final return" by the employer or the person filing the return. An employer who has only temporarily ceased to pay taxable compensation shall continue to file returns, but shall enter on the face of any return on which no compensation is required to be reported the date of the last payment of taxable compensation and the date when he expects to resume paying taxable compensation to one or more employees. The last return on Form CT–2 for any employee representative who ceases to be paid taxable compensation for services as an employee representative shall be marked "Final return" by the employee representative or the person filing the return. An employee representative who has only temporarily ceased to be paid taxable compensation for services as an employee representative shall continue to file returns, but shall enter on the face of any return on which no compensation is required to be reported the date of the last payment of taxable compensation and the date when he expects again to be paid taxable compensation for services as an employee representative. The final return on Form CT–1 or CT–2 shall be filed with the collector on or before the sixtieth day after the date of the final payment of compensation with respect to which the tax is imposed, and shall plainly show the period covered and also the date of the last payment of taxable compensation. There shall be executed as a part of each final return a statement, in duplicate, giving the address at which the records required by § 411.608

will be kept and the name of the person keeping such records.

§ 411.603 *Execution of returns.* Each return on Form CT–1 shall be signed by the employer and shall contain or be verified by a written declaration that it is made under the penalties of perjury. The return shall be signed and verified by (a) the individual, if the employer is an individual; (b) the president, vice president, or other principal officer, if the employer is a corporation; or (c) a responsible and duly authorized member or officer having knowledge of its affairs, if the employer is a partnership or other unincorporated organization. Each return on Form CT–2 shall be signed by the employee representative and shall contain or be verified by a written declaration that it is made under the penalties of perjury. The return may be executed by an agent in the name of the taxpayer if an acceptable power of attorney is filed with the collector and if, in the case of the employer's return, such return includes the taxable compensation paid to all employees of the employer for the period covered by the return.

§ 411.604 *Use of prescribed forms.* Copies of the prescribed return forms will so far as possible be regularly furnished taxpayers by collectors without application therefor. A taxpayer will not be excused from making a return, however, by the fact that no return form has been furnished to him. A taxpayer who has not been supplied with the proper form should make application therefor to the collector in ample time to have return prepared, verified, and filed with the collector on or before the due date. (See § 411.605, relating to the place and time for filing returns; see also § 411.602, relating to final returns.) If the prescribed form is not available, a statement made by the taxpayer disclosing for the period for which a return is required the amount of compensation with respect to which the tax is imposed and the amount of tax due may be accepted as a tentative return. If filed within the prescribed time the statement so made will relieve the taxpayer from liability for the addition to tax imposed for the delinquent filing of the return by section 3612 (d) (1) of the Internal Revenue Code (see § 411.905 (a)): *Provided,* That without unnecessary delay such tentative return is supplemented by a return made on the proper form.

Each return, together with any prescribed copies and supporting data, shall be filled in and disposed of in accordance with the instructions and regulations applicable thereto. (See § 411.605, relating to the place and time for filing returns, and § 411.608 (d) and (g), relating to copies of returns, schedules, and statements, and to the place and period for keeping records.) The return shall be carefully prepared so as fully and accurately to set forth the data called for therein. Returns which have not been so prepared will not be accepted as meeting the requirements of the act. Consolidated returns of parent and subsidiary corporations are not permitted.

§ 411.605 *Place and time for filing returns.* Each return on Form CT–1 shall be filed with the collector for the district in which is located the principal place of business of the employer. Each return on Form CT–2 shall be filed with the collector for the district in which is located the legal residence or principal place of business of the employee representative. If the employer has no principal place of business in the United States or if the employee representative has no legal residence or principal place of business in the United States, the return shall be filed with the collector at Baltimore, Md. Except as provided in § 411.602, each return shall be filed on or before the last day of the second calendar month following the period for which it is made. If the last day for filing any return falls on Sunday or a legal holiday, the return may be filed on the next following business day. If placed in the mails, the return shall be posted in ample time to reach the collector's office, under ordinary handling of the mails, on or before the due date. As to additions to tax for failure to file the return within the prescribed time, see § 411.905 (a). See also section 2707 of the Internal Revenue Code, relating to penalties.

§ 411.606 *Payment of tax.* The tax required to be reported on any return is due and payable to the collector, without assessment by the Commissioner or notice by the collector, at the time fixed for filing the return. For provisions relating to interest, additions to tax, and penalties, see §§ 411.903, 411.904, and 411.905 of the regulations in this part and section 2707 of the Internal Revenue Code.

§ 411.607 *When fractional part of cent may be disregarded.* In the payment of taxes to the collector a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. Fractional parts of a cent shall not be disregarded in the computation of taxes. See § 411.303 (d) for provisions relating to fractional parts of a cent in connection with the deduction of employees' tax from compensation.

§ 411.608 *Records*—(a) *Records of employers.* Every employer liable for tax shall keep accurate records of all remuneration (whether in money or in something which may be used in lieu of money) other than tips paid to his employees after December 31, 1948, for services rendered to him (including "time lost") after December 31, 1936. Such records shall show with respect to each employee:

(1) The name and address of the employee;

(2) The total amount and date of each payment of remuneration to the employee (including any sum withheld therefrom as tax or for any other reason) and the period of service (including any period of absence from active service) covered by such payment;

(3) The amount of such payment of remuneration with respect to which the tax is imposed; and

(4) The amount of employees' tax withheld or collected with respect to such payment, and, if collected at a time other than the time such payment was made, the date collected.

If the total payment of remuneration (subparagraph (2) of this paragraph) and the amount thereof with respect to which the tax is imposed (subparagraph (3) of this paragraph) are not equal, the reason therefor shall be made a matter of record. Accurate records of the details of each adjustment or settlement made pursuant to §§ 411.702 or 411.703, including the date and amount of each adjustment or settlement, shall also be kept.

(b) *Records of employees.* While not mandatory, it is advisable for each employee to keep permanent, accurate records showing the name and address of each employer for whom he renders services as an employee, the dates of beginning and termination of such services rendered to each employer, and the information with respect to himself which is required by paragraph (a) of this section to be kept by employers. (See, however, paragraph (e), relating to records of claimants.)

(c) *Records of employee representatives.* Every individual liable for employee representatives' tax shall keep accurate records of all remuneration (whether in money or in something which may be used in lieu of money) paid to him after December 31, 1948, for services rendered (including "time lost") by him as an employee representative after December 31, 1946. Such records shall show:

(1) The name and address of each employee organization employing him;

(2) The total amount and date of each payment of remuneration for services rendered as an employee representative (including any sum withheld therefrom) and the period of service (including any period of absence from active service) covered by such payment; and

(3) The amount of such payment of remuneration with respect to which the employee representatives' tax is imposed.

If the total payment of remuneration (subparagraph (2) of this paragraph) and the amount thereof with respect to which the employee representatives' tax is imposed (subparagraph (3) of this paragraph) are not equal, the reason therefor shall be made a matter of record.

(d) *Copies of returns, schedules, and statements.* Every taxpayer who is required, by the regulations in this part or by instructions applicable to any form prescribed under such regulations, to keep a copy of any return, schedule, statement, or other document shall keep such copy as a part of his records.

(e) *Records of claimants.* Every person (including an employee) claiming refund, credit, or abatement of any tax, penalty, or interest shall keep a complete and detailed record with respect to such tax, penalty, or interest.

(f) *Form of records.* No particular form is prescribed for keeping the records required by this section. Each person required to keep records shall use such forms and systems of accounting as will enable the Commissioner to ascertain whether the taxes for which such person is liable are correctly computed and paid.

(g) *Place and period for keeping records.* All records required by the regulations in this part shall be kept, by the person required to keep them, at one or more convenient and safe locations accessible to internal revenue officers. Such records shall at all times be open for inspection by such officers. If the employer has a principal place of business in the United States, the records required by paragraphs (d) and (e) of this section shall be kept at such place of business. If the employee representative has a principal place of business or legal residence in the United States, the records required by paragraphs (d) and (e) of this section shall be kept at such place of business or residence.

Records required by paragraphs (a), (c), and (d) of this section shall be maintained for a period of at least four years after the date the tax to which they relate becomes due, or the date the tax is paid, whichever is later. Records required by paragraph (e) of this section (including any record required by paragraph (a), (c), or (d) which relates to a claim) shall be maintained for a period of at least four years after the date the claim is filed.

SUBPART G—ADJUSTMENT OF EMPLOYEES' TAX AND EMPLOYERS' TAX

SECTION 1501 (c) OF THE ACT

ADJUSTMENTS

If more or less than the correct amount of tax imposed by section 1500 is paid with respect to any compensation payment, then, under regulations made under this subchapter by the Commissioner, with the approval of the Secretary, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in connection with subsequent compensation payments to the same employee by the same employer.

SECTION 1521 OF THE ACT

ADJUSTMENTS

If more or less than the correct amount of the tax imposed by section 1520 is paid with respect to any compensation payment, then, under regulations made by the Commissioner, with the approval of the Secretary, proper adjustments with respect to the tax shall be made, without interest, in connection with subsequent excise-tax payments made by the same employer.

§ 411.701 *Adjustments in general.* Errors in the payment of employees' tax and employers' tax must be adjusted in certain cases without interest. Not all corrections of erroneous collections or payments of tax, however, constitute adjustments within the meaning of the act and the regulations in this part. The various situations under which such adjustments shall be made are set forth in §§ 411.702 and 411.703, the provisions of which also relate to settlement other than by adjustment under certain circumstances set forth therein. No underpayment of employees' tax or employers' tax shall be reported pursuant to such sections after receipt from the collector of notice and demand for payment thereof based upon an assessment, but the amount shall be paid in accordance with such notice and demand. Every return on which an adjustment or settlement is reported pursuant to §§ 411.702 or 411.703 must have securely attached as a part thereof a statement, in duplicate, explaining the adjustment or settlement in detail and setting forth such other information as may be required by the regulations in this part and by the instructions relating to the return.

§ 411.702 *Adjustment of employees' tax*—(a) *Undercollections*—(1) *Prior to filing of return.* If no employees' tax or less than the correct amount of employees' tax is deducted from any payment of compensation to an employee and the error is ascertained prior to the time the return on Form CT–1 is filed with the collector for the period for which such compensation is required to be reported (see § 411.601), the employer shall nevertheless report on such return and pay to the collector the correct amount of employees' tax. However, the reporting and payment by the employer of the correct amount of such tax in accordance with this subparagraph do not constitute an adjustment, and the amount shall not be reported as an adjustment on the return. The obligation of the employee to the employer with respect to the undercollection of the employees' tax in such case is a matter for settlement between the employee and the employer.

(2) *After return is filed.* If no employees' tax or less than the correct amount of employees' tax is deducted from any payment of compensation to an employee and the correct amount of such tax is not reported on a return on Form CT–1 and paid to the collector pursuant to subparagraph (1) of this paragraph, the employer shall collect the amount of the undercollection by deducting such amount from the first payment of compensation subject to employees' tax made to such employee after the error is ascertained. Such deduction shall be made without interest. The amount so deducted shall be reported by the employer as an adjustment on the return on Form CT–1 for the tax-return period for which such first payment of compensation is required to be reported (see § 411.601). The undercollection shall be deducted from such first payment of compensation in addition to the employees' tax imposed with respect to such compensation and shall be paid to the collector at the time fixed for the payment of such employees' tax. If an adjustment is reported pursuant to this subparagraph and is paid when due, the amount of the adjustment is payable without interest. However, if the amount of the adjustment is not paid when due, interest thereafter accrues. If an employer makes an erroneous collection of employees' tax from two or more of his employees, a separate settlement must be made with respect to each employee. Thus, an overcollection of employees' tax from one employee may not be used to offset an undercollection of such tax from another.

If after the error is ascertained no further payment to the employee of compensation subject to employees' tax is made or contemplated by the employer who failed to deduct the correct amount of employees' tax, the undercollection is not adjustable under this section. In such case if the undercollection is not reported and paid pursuant to subparagraph (1) of this paragraph, the amount of such undercollection shall be reported on the employer's next return on Form CT–1. (For interest accruing on amounts so reported, see § 411.903.) The obligation of the employee to the employer with respect to the undercollection of the employees' tax in such case is a matter for settlement between the employee and the employer.

(b) *Overcollections*—(1) *Prior to filing of return.* If an employer (i) collects more than the correct amount of employees' tax from any employee with respect to the compensation required to be reported for any tax-return period, and (ii) reimburses the employee in the amount of the overcollection prior to the time the return on Form CT–1 for such period is filed with the collector, the employer shall not report on any return or pay to the collector the amount of the overcollection. However, every overcollection for which the employee is not reimbursed as provided in this subparagraph must be reported and paid to the collector with the return on Form CT–1 for the period with respect to which the overcollection was made.

(2) *After return is filed.* If an employer collects from any employee and pays to the collector more than the correct amount of employees' tax, the employer shall adjust the overcollection when the first payment of compensation subject to employees' tax is made to the employee after the error is ascertained. The adjustment shall be made by applying the overcollection against the employees' tax which is imposed with respect to such first payment of compensation, and by deducting the remainder, if any, of the tax from such compensation. In case the overcollection is greater in amount than the employees' tax imposed with respect to such first payment of compensation, the balance shall be applied against the employees' tax imposed with respect to the next consecutive payments of compensation subject to employees' tax until the adjustment is completed. An overcollection is adjustable under this subparagraph only to the extent that the adjustment of such overcollection is completed and reported on a return filed within the 4-year period after the date the overpayment was made to the collector. A claim for credit or refund (in accordance with § 411.801) may be filed within such 4-year period for such part of any overcollection paid to the collector as cannot be adjusted under this subparagraph. If after the error is ascertained no further payment to the employee of compensation subject to employees' tax is made or contemplated by the employer who made the overcollection, the overpayment is not adjustable under this section. In such case the employer may pay the amount of the overcollection, or such part thereof as remains unadjusted under this section, to the employee and file a claim for credit or refund in accordance with § 411.801. In lieu of paying such amount prior to filing a claim, the employer may obtain the employee's written consent to allowance of the claim.

§ 411.703 *Adjustment of employers' tax*—(a) *Underpayments.* If no em-

ployers' tax or less than the correct amount of employers' tax with respect to any payment of compensation is reported on a return on Form CT–1 and paid to the collector, the employer shall adjust the underpayment by reporting the amount of the underpayment as additional tax on his next return on Form CT–1 filed after the error is ascertained. The amount of each underpayment adjusted in accordance with this paragraph shall be paid to the collector at the time fixed for filing such return. If an adjustment is reported pursuant to this paragraph and is paid when due, the amount of the adjustment is payable without interest. However, if the amount of the adjustment is not paid when due, interest thereafter accrues.

(b) *Overpayments.* If an employer pays more than the correct amount of employers' tax with respect to any payment of compensation, the employer shall adjust the overpayment by reporting the amount of the overpayment as a deduction from the amount of employers' tax reported on his next return on Form CT–1 filed after the error is ascertained. An overpayment is adjustable under this paragraph only to the extent that the overpayment is deducted from the employers' tax reported on a return filed within the 4-year period after the date the overpayment was made to the collector. A claim for credit or refund (in accordance with § 411.801) may be filed within such 4-year period for such part of any overpayment as cannot be adjusted under this paragraph. If after the error is ascertained no employers' tax is reported on a return on Form CT–1 and paid to the collector by the employer who made the overpayment, or such reporting and payment are not contemplated by the employer, the overpayment is not adjustable under this section. In such case the employer may file a claim for credit or refund in accordance with § 411.801.

SUBPART H—REFUNDS, CREDITS, AND ABATEMENTS

SECTION 1502 OF THE ACT

OVERPAYMENTS

If more * * * than the correct amount of the tax imposed by section 1500 is paid or deducted with respect to any compensation payment and the overpayment * * * of the tax cannot be adjusted under section 1501 (c), the amount of the overpayment shall be refunded * * * in such manner and at such times (subject to the statute of limitations properly applicable thereto) as may be prescribed by regulations under this subchapter as made by the Commissioner, with the approval of the Secretary.

SECTION 1522 OF THE ACT

OVERPAYMENTS

If more * * * that the correct amount of the tax imposed by section 1520 is paid or deducted with respect to any compensation payment and the overpayment * * * of the tax cannot be adjusted under section 1521, the amount of the overpayment shall be refunded * * * in such manner and at such times (subject to the statute of limitations properly applicable thereto) as may be prescribed by regulations under this subchapter as made by the Commissioner, with the approval of the Secretary.

SECTION 2703 (a) OF THE INTERNAL REVENUE CODE, MADE APPLICABLE BY SECTION 1636 OF THE ACT

ERRONEOUS PAYMENTS

In General. In the case of any overpayment or overcollection of the tax * * *, the person making such overpayment or overcollection may take credit therefor against taxes due upon any * * * return, and shall make refund of any excessive amount collected by him upon proper application by the person entitled thereto.

SECTION 3770 (a) OF THE INTERNAL REVENUE CODE

AUTHORITY TO MAKE ABATEMENTS, CREDITS, AND REFUNDS

To taxpayers—(1) *Assessments and collections generally.* Except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, the Commissioner, subject to regulations prescribed by the Secretary, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected.

(2) *Assessments and collections after limitation period.* Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

* * * * *

(Sec. 3770 (a), I. R. C., as amended by sec. 508 (b), Second Revenue Act of 1940, 54 Stat. 1008)

SECTION 3313 OF THE INTERNAL REVENUE CODE

PERIOD OF LIMITATION UPON REFUNDS AND CREDITS

All claims for the refunding or crediting of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must * * * be presented to the Commissioner within four years next after the payment of such tax, penalty, or sum. The amount of the refund * * * shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.

SECTION 3477 OF THE UNITED STATES REVISED STATUTES

WHEN ASSIGNMENTS OF CLAIM VOID

All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. Such transfers, assignments, and powers of attorney, must recite the warrant for payment, and must be acknowledged by the person making them, before an officer having authority to take acknowledgments of deeds, and shall be certified by the officer; and it must appear by the certificate that the officer, at the time of the acknowledgment, read and fully explained the transfer, assignment, or warrant of attorney to the person acknowledging the same.

* * * * *

§ 411.801 *Refund or credit of overpayments which are not adjustable; abatement of overassessments*—(a) *Who may make claims.* If more than the correct amount of tax, penalty, or interest is paid to the collector, the person who paid such tax, penalty, or interest to the collector may file a claim for refund of such overpayment or such person may take credit for the overpayment on any return on Form CT–1 or Form CT–2 which he subsequently files. (See paragraph (a) of this section, relating in part to overpayments which are adjustable.) If more than the correct amount of tax, penalty, or interest is assessed but not paid to the collector, the person against whom the assessment is made may file a claim for abatement of such overassessment. (See also paragraph (c) of this section, relating to claims by employees.)

(b) *Statements supporting employers' claims for employees' tax.* Every claim filed by an employer for refund, credit, or abatement of employees' tax collected from an employee shall include a statement that the employer has repaid the tax to the employee or has secured the written consent of such employee to allowance of the refund, credit, or abatement. In every such case, the employer shall maintain as part of his records the written receipt of the employee, showing the date and amount of the repayment, or the written consent of the employee, whichever is used in support of the claim. (See paragraph (d) of this section, relating to form of claims.)

(c) *Refund claims made by employees.* If (1) more than the correct amount of employees' tax is collected by an employer from an employee and paid to the collector, and (2) such overcollection is not adjustable under § 411.702, and (3) the employee does not receive reimbursement in any manner from such employer and does not authorize the employer to file a claim and receive refund or credit, such employee may file a claim for refund of such overpayment. The employee shall submit with the claim a statement setting forth the extent, if any, to which the employer has reimbursed the employee in any manner for the overcollection, the amount, if any, of credit or refund of such overpayment claimed by the employer or authorized by the employee to be claimed by the employer, and such facts as will establish that the overpayment is not adjustable under § 411.702. The employee shall obtain such statement, if possible, from the employer, who should include in such statement the fact that it is made in support of a claim against the United States to be filed by the employee for refund of employees' tax paid by such employer to the collector of internal revenue. If the employer's statement is not submitted with the claim, the employee shall make the statement to the best of his knowledge and belief, and shall include therein an explanation of his inability to obtain the statement from the employer.

(d) *Form of claims.* Each claim for refund or abatement under this section shall be made on Form 843 in accordance with the regulations in this part and with the instructions relating to such form. Copies of Form 843 may be obtained from any collector. If credit is taken under this section, a claim on Form 843 is not required, but the return on which such credit is claimed shall have securely attached as a part thereof a statement, in duplicate, which shall constitute the claim for credit, setting forth in detail the grounds and facts relied upon in support of the credit and showing such other information as is required by the regulations in this part and by the instructions relating to the return.

(e) *Limitations on claims.* No refund or credit will be allowed after the expiration of four years after the payment to the collector of the tax, penalty, or interest, except upon one or more of the grounds set forth in a claim filed prior to the expiration of such 4-year period. No refund or credit of an overpayment will be allowed if such overpayment is adjustable under §§ 411.702 or 411.703.

(f) *Claims improperly made.* Any claim which does not comply with the requirements of this section will not be considered for any purpose as a claim for refund, credit, or abatement.

(g) *Proof of representative capacity.* If a return is made by an individual who thereafter dies and a refund claim is made by a legal representative of the deceased, certified copies of the letters testamentary, letters of administration, or other similar evidence must be annexed to the claim, to show the authority of the executor, administrator, or other fiduciary by whom the claim is made. If an executor, administrator, guardian, trustee, receiver, or other fiduciary makes a return and thereafter a refund claim is made by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made in the claim showing that the return was made by the fiduciary and that the latter is still acting. In such cases, if a refund or interest is to be paid, letters testamentary, letters of administration, or other evidence may be required, but should be submitted only upon the receipt of a specific request therefor. If a claim is made by a fiduciary other than the one by whom the return was made, the necessary documentary evidence should accompany the claim. The affidavit may be made by the agent of the person assessed, but in such case a power of attorney must accompany the claim.

SECTION 7 (e) OF THE CARRIERS TAXING ACT OF 1937

Any tax paid under this Act (Carriers Taxing Act of 1937) by a taxpayer with respect to any period with respect to which he is not liable to tax under this Act shall be credited against the tax, if any, imposed by title VIII of the Social Security Act upon such taxpayer, and the balance, if any, shall be refunded. * * *

SECTION 1531 OF THE ACT

ERRONEOUS PAYMENTS

Any tax paid under this subchapter by a taxpayer with respect to any period with respect to which he is not liable to tax under this subchapter shall be credited against the tax, if any, imposed by subchapter A upon such taxpayer, and the balance, if any, shall be refunded.

§ 411.802 *Credit and refund of taxes paid under Railroad Retirement Tax Act or corresponding prior law for period during which liability existed under Federal Insurance Contributions Act or corresponding prior law*—(a) *Taxes paid under Carriers Taxing Act of 1937.* If any person pays any amount as tax under the Carriers Taxing Act of 1937 with respect to any period for which he is not liable for such tax and such person is liable for a tax imposed by Title VIII of the Social Security Act, the amount paid as tax under the Carriers Taxing Act of 1937 shall be credited against the tax for which such person is liable under Title VIII of the Social Security Act and the balance, if any, shall be refunded. Each claim for refund under this paragraph shall be made in accordance with § 411.801. Each claim for credit under this paragraph shall be made on Form 843 in accordance with the instructions relating to such form and the applicable provisions of § 411.801. See article 703 of Regulations 100 for credit or refund of amounts paid as tax under Title VIII of the Social Security Act for any period during which liability existed under the Carriers Taxing Act of 1937.

(b) *Taxes paid under Railroad Retirement Tax Act.* If any person pays any amount as tax under the Railroad Retirement Tax Act (in force before, on, or after January 1, 1947) with respect to any period for which he is not liable for such tax and such person is liable for a tax imposed by the Federal Insurance Contributions Act (in force before, on, or after January 1, 1940), the amount paid as tax under the Railroad Retirement Tax Act shall be credited against the tax for which the person is liable under the Federal Insurance Contributions Act and the balance, if any, shall be refunded. Each claim for refund under this paragraph shall be made in accordance with § 411.801. Each claim for credit under this paragraph shall be made on Form 843 in accordance with the instructions relating to such form and the applicable provisions of § 411.801 of the regulations in this part. See section 1422 of the Federal Insurance Contributions Act for credit or refund of amounts paid as tax under such act for any period during which liability existed under the Railroad Retirement Tax Act.

SUBPART I—MISCELLANEOUS PROVISIONS

ASSESSMENT AND COLLECTION OF UNDERPAYMENTS

SECTION 1502 OF THE ACT

UNDERPAYMENTS

If * * * less than the correct amount of the tax imposed by section 1500 is paid or deducted with respect to any compensation payment and the * * * underpayment of the tax cannot be adjusted under section 1501 (c), * * * the amount of the underpayment shall be collected in such manner and at such times (subject to the statute of limitations properly applicable thereto) as may be prescribed by regulations under this subchapter as made by the Commissioner, with the approval of the Secretary.

SECTION 1522 OF THE ACT

UNDERPAYMENTS

If * * * less than the correct amount of the tax imposed by section 1520 is paid or deducted with respect to any compensation payment and the * * * underpayment of the tax cannot be adjusted under section 1521, * * * the amount of the underpayment shall be collected in such manner and at such times (subject to the statute of limitations properly applicable thereto) as may be prescribed by regulations under this subchapter as made by the Commissioner, with the approval of the Secretary.

§ 411.901 *Assessment and collection of underpayments.* If any employers' tax or employees' tax is not paid to the collector when due, the Commissioner may, as the circumstances warrant, assess the tax (whether or not the underpayment is otherwise adjustable) or afford the employer opportunity to adjust the underpayment pursuant to §§ 411.702 or 411.703. Unpaid employers' tax or employees' tax may be assessed against the employer. Employees tax not collected by the employer may also be assessed against the employee. If any employee representatives' tax is not paid when due, it shall be assessed against the employee representative. The unpaid amount, together with interest and penalty, if any, will be collected, pursuant to section 3655 of the Internal Revenue Code and other applicable provisions of law, from the person against whom the assessment is made. If an employer pays employees' tax pursuant to an assessment against him without an adjustment having been made pursuant to § 411.702, reimbursement is a matter to be settled between the employer and the employee. (See § 411.903, relating to interest, and § 411.904, relating to penalty for failure to pay an assessment after notice and demand. See also § 411.902, relating to jeopardy assessments.)

JEOPARDY ASSESSMENTS

SECTION 3660 OF THE INTERNAL REVENUE CODE

JEOPARDY ASSESSMENT

(a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3690.

(b) The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of the amount collection of which is stayed, at the time at which, but for this section, such amount would be due.

SECTION 3690 OF THE INTERNAL REVENUE CODE

AUTHORITY TO DISTRAIN

If any person liable to pay any taxes neglects or refuses to pay the same within ten

days after notice and demand, it shall be lawful for the collector or his deputy to collect the said taxes, with such interest and other additional amounts as are required by law, by distraint and sale, in the manner provided in this subchapter, of the goods, chattels, or effects, including stocks, securities, bank accounts, and evidences of debt, of the person delinquent as aforesaid.

§ 411.902 *Jeopardy assessments.* Whenever, in the opinion of the collector, the collection of the tax will be jeopardized by delay, he should report the case promptly to the Commissioner by telegram or letter. The communication should recite the full name and address of the person involved, the tax-return period or periods involved, the amount of tax due for each period, the date any return was filed by or for the taxpayer for such period, a reference to any prior assessment made for such period against the taxpayer, and a statement as to the reason for the recommendation, which will enable the Commissioner to assess the tax, together with all penalties and interest due. Upon assessment such tax, penalty, and interest shall become immediately due and payable, whereupon the collector will issue immediately a notice and demand for payment of the tax, penalty, and interest.

The collection of the whole or any part of the amount of the jeopardy assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount with respect to which the stay is desired, and with such sureties as the collector deems necessary. Such bond shall be conditioned upon the payment of the amount, collection of which is stayed, at the time at which, but for the jeopardy assessment, such amount would be due. In lieu of surety or sureties the taxpayer may deposit with the collector bonds or notes of the United States, or bonds or notes fully guaranteed by the United States, having a par value not less than the amount of the bond required to be furnished, together with an agreement authorizing the collector in case of default to collect or sell such bonds or notes so deposited.

Upon refusal to pay, or failure to pay or give bond, the collector will proceed immediately to collect the tax, penalty, and interest by distraint without regard to the period prescribed in section 3690 of the Internal Revenue Code.

INTEREST AND ADDITIONS TO TAX

SECTION 1530 (c) OF THE ACT

ADDITIONS TO TAX IN CASE OF DELINQUENCY

If a tax imposed by this subchapter is not paid when due, there shall be added as part of the tax (except in the case of adjustments made in accordance with the provisions of this subchapter) interest at the rate of 6 per centum per annum from the date the tax became due until paid.

SECTION 3655 OF THE INTERNAL REVENUE CODE

NOTICE AND DEMAND FOR TAX

(a) *Delivery.* Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof.

(b) *Addition to tax for nonpayment.* If such person does not pay the taxes, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of 5 per centum additional upon the amount of taxes, and interest at the rate of 6 per centum per annum from the date of such notice to the date of payment * * *.

§ 411.903 *Interest.* If the tax is not paid to the collector when due and is not adjusted under § 411.702 or 411.703, interest accrues at the rate of 6 percent per annum.

§ 411.904 *Addition to tax for failure to pay an assessment after notice and demand.* (a) If tax, penalty, or interest is assessed and the entire amount thereof is not paid within 10 days after the date of issuance of notice and demand for payment thereof, based on such assessment, there accrues under section 3655 of the Internal Revenue Code (except as provided in paragraph (b) of this section) a penalty of 5 percent of the assessment remaining unpaid at the expiration of such period.

(b) If, within 10 days after the date of issuance of notice and demand, a claim for abatement of any amount of the assessment is filed with the collector, the 5 percent penalty does not attach with respect to such amount. If the claim is rejected in whole or in part and the amount rejected is not paid, the collector shall issue notice and demand for such amount. If payment is not made within 10 days after the date the collector issues the notice and demand, the 5 percent penalty attaches with respect to the amount rejected. The filing of the claim does not stay the running of interest.

SECTION 3612 (d) AND (e) OF THE INTERNAL REVENUE CODE

(d) *Additions to tax*—(1) *Failure to file return.* In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax: *Provided,* That in the case of a failure to make and file a return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after August 30, 1935, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

(2) *Fraud.* In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

* * * * *

(e) *Collection of additions to tax.* The amount added to any tax under paragraphs (1) and (2) of subsection (d) shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

§ 411.905 *Additions to tax for delinquent or false returns*—(a) *Delinquent returns.* If a person fails to make and file a return required by the regulations in this part within the prescribed time, a certain percent of the amount of the tax is added to the tax unless the return is later filed and failure to file the return within the prescribed time is shown to be due to reasonable cause and not to willful neglect. The amount to be added to the tax is 5 percent if the failure is for not more than 30 days, with an additional 5 percent for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 percent in the aggregate. In computing the period of delinquency all Sundays and holidays after the due date are counted. Two classes of delinquents are subject to this addition to the tax:

(1) Those who do not file returns and for whom returns are made by a collector, a deputy collector, or the Commissioner; and

(2) Those who file tardy returns and are unable to show reasonable cause for the delay.

A person who files a tardy return and wishes to avoid the addition to the tax for delinquency must make an affirmative showing of all facts alleged as a reasonable cause for failure to file the return on time in the form of a statement which should be attached to the return as a part thereof.

(b) *False returns.* If a false or fraudulent return is willfully made, the addition to tax under section 3612 (d) (2) of the Internal Revenue Code is 50 percent of the total tax due for the entire period involved, including any tax previously paid.

PENALTIES

SECTION 2707 OF THE INTERNAL REVENUE CODE, MADE APPLICABLE BY SECTION 1536 OF THE ACT

PENALTIES

(a) Any person who willfully fails to pay, collect, or truthfully account for and pay over the tax * * *, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subsection for any offense for which a penalty may be assessed under authority of section 3612.

(b) Any person required under this subchapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this subchapter who willfully fails to pay such tax, make such returns, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(c) Any person required under this subchapter to collect, account for and pay over any tax imposed by this subchapter, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to

evade or defeat any tax imposed by this subchapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the casts of prosecution.

(d) The term "person" as used in this section includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SECTION 3616 OF THE INTERNAL REVENUE CODE

PENALTIES

Whenever any person:

(a) *False returns.* Deliveres or discloses to the collector or deputy any false or fraudulent list, return, account, or statement, with intent to defeat or evade the valuation, enumeration, or assessment intended to be made; or,

(b) *Neglect to obey summons.* Being duly summoned to appear to testify, or to appear and produce books as required under section 3615, neglects to appear or to produce said books:

He shall be fined not exceeding $1,000, or be imprisoned not exceeding one year, or both, at the discretion of the court, with costs of prosecution.

* * * * *

SECTION 286 OF TITLE 18 OF THE UNITED STATES CODE

CONSPIRACY TO DEFRAUD THE GOVERNMENT WITH RESPECT TO CLAIMS

Whoever enters into any agreement, combination, or conspiracy to defraud the United States, or any department or agency thereof, by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim, shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

SECTION 287 OF TITLE 18 OF THE UNITED STATES CODE

FALSE, FICTITIOUS OR FRAUDULENT CLAIMS

Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SECTION 1001 OF TITLE 18 OF THE UNITED STATES CODE

STATEMENTS OR ENTRIES GENERALLY

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SECTION 1630 (b) OF THE INTERNAL REVENUE CODE

PENALTIES

Every person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and, upon conviction thereof, shall be subject to the penalties prescribed for perjury in section 125 of the Criminal Code (Title 18, U. S. C., sec. 1621) (Sec. 1630 (b), I. R. C., as added by sec. 2 (a), Current Tax Payment Act of 1943, 57 Stat. 126)

SECTION 1621 OF TITLE 18 OF THE UNITED STATES CODE

PERJURY GENERALLY

Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, except as otherwise expressly provided by law, be fined not more than $2,000 or imprisoned not more than five years, or both.

SECTION 3793 (b) OF THE INTERNAL REVENUE CODE

FRAUDULENT RETURNS, AFFIDAVITS, AND CLAIMS

(1) *Assistance in preparation or presentation.* Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony, and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(2) *Person defined.* The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

OTHER LAWS APPLICABLE

SECTION 1536 OF THE ACT

OTHER LAWS APPLICABLE

All provisions of law, including penalties, applicable with respect to any tax imposed by section 2700 or section 1800, and the provisions of section 3661, insofar as applicable and not inconsistent with the provisions of this subchapter, shall be applicable with respect to the taxes imposed by this subchapter. (Sec. 1536, I. R. C., as amended by sec. 1, Act of Mar. 17, 1941, 55 Stat. 44)

RULES AND REGULATIONS

SECTION 1535 OF THE ACT

RULES AND REGULATIONS

The Commissioner, with the approval of the Secretary, shall make and publish such rules and regulations as may be necessary for the enforcement of this subchapter.

SECTION 3791 OF THE INTERNAL REVENUE CODE

RULES AND REGULATIONS

(a) *Authorization*—(1) *In general.* * * * the Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title [Internal Revenue Code].

(2) *In case of change in law.* The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

(h) *Retroactivity of regulations and rulings.* The Secretary, or Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect.

§ 411.906 *Promulgation of regulations.* In pursuance of section 1535 of the act, section 3791 of the Internal Revenue Code, and other provisions of the internal revenue laws, the foregoing regulations are to be prescribed. (See §§ 411.102 and 411.103, relating to the scope of the regulations in this part and the extent to which they supersede prior regulations.)

[SEAL] GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.

Approved: December 30, 1948.

THOMAS J. LYNCH,
Acting Secretary of the Treasury.

[F. R. Doc. 49-84; Filed, Jan. 5, 1949; 8:49 a. m.]

TITLE 29—LABOR

Chapter II—National Labor Relations Board

REDESIGNATION OF CHAPTER

EDITORIAL NOTE: Chapter II—National Labor Relations Board, is redesignated Chapter I, and Parts 202, 203 and 204 are redesignated Parts 101, 102 and 103, respectively.

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury

DISCONTINUANCE OF CODIFICATION

EDITORIAL NOTE: In order to conform Subtitle A of Title 31 to the scope and style of the Code of Federal Regulations, 1949 Edition, as prescribed by the regulations of the Administrative Committee of the Federal Register and approved by the President effective October 12, 1948 (13 F. R. 5929), the following editorial change is made.

1. The codification of Part 12—Organization and Functions of the Committee on Practice, is discontinued. Future amendments to this material will appear in the Notices section of the FEDERAL REGISTER.

Chapter I—Monetary Offices, Department of the Treasury

APPENDIX B TO PART 131—GENERAL LICENSES UNDER EXECUTIVE ORDER 8389, APRIL 10, 1940, AS AMENDED, AND REGULATIONS ISSUED PURSUANT THERETO

INSTRUCTIONS FOR PREPARATION OF REPORTS OF PROPERTY SUBJECT TO UNITED STATES JURISDICTION

Public Circular No. 4C is hereby revoked.

(Sec. 5 (b), 40 Stat. 415, 966, sec. 2, 48 Stat. 1, sec. 301, 55 Stat. 838; 12 U. S. C. 95a, 50 U. S. C. App. Sup., 5 (b); E. O. 8389, Apr. 10, 1940, as amended, E. O. 9193, July 6, 1942, as amended, 3 CFR 1943 Cum. Supp.)

[SEAL] THOMAS J. LYNCH,
Acting Secretary of the Treasury.

[F. R. Doc. 49-82; Filed, Jan. 5, 1949; 8:47 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Order

[Public Land Order 542]

IDAHO

TRANSFER OF LANDS FROM SALMON NATIONAL FOREST TO TARGHEE NATIONAL FOREST

By virtue of the authority vested in the President by the act of June 4, 1897, 30 Stat. 11, 36 (16 U. S. C. 473), and pursuant to Executive Order No. 9337 of April 24, 1943, and upon the recommendation of the Secretary of Agriculture, it is ordered as follows:

Those portions of the following described lands within the exterior boundaries of the Salmon National Forest are hereby transferred to the Targhee National Forest, effective July 1, 1948.

BOISE MERIDIAN

Tps. 10 and 11 N., R. 27 E., partly unsurveyed.
T. 12 N., R. 27 E., That part south of the drainage of Lemhi Union Gulch and Bruce Canyon, partly unsurveyed.
Tps. 9, 10 and 11 N., R. 28 E., partly unsurveyed.
Tps. 7 to 10 N., R. 29 E., inclusive, partly unsurveyed.
Tps. 12 and 13 N., R. 29 E., partly unsurveyed.
Tps. 7 to 13 N., R. 30 E., inclusive, partly unsurveyed.
Tps. 9 to 13 N., R. 31 E., inclusive, partly unsurveyed.
Tps. 9 to 14 N., R. 32 E., inclusive, partly unsurveyed.

It is not intended by this order to give a national-forest status to any publicly-owned lands which have not hitherto had such a status, or to change the status of any publicly-owned lands which have hitherto had national-forest status.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

DECEMBER 28, 1948.

[F. R. Doc. 49-74; Filed, Jan. 5, 1949; 8:45 a. m.]

[Public Land Order 543]

CALIFORNIA

REVOKING IN PART PUBLIC LAND ORDER NO. 460 OF APRIL 1, 1948, WITHDRAWING PUBLIC LANDS IN CONNECTION WITH NAVAL PETROLEUM RESERVE NO. 1

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Public Land Order No. 460 of April 1, 1948, withdrawing public lands in contemplation of their inclusion in Naval Petroleum Reserve No. 1, is hereby revoked so far as it affects the following-described public lands:

MOUNT DIABLO MERIDIAN

T. 30 S., R. 22 E.,
Sec. 10, E½.

The area described contains 320 acres.

The land is rough and mountainous.

No applications for this land may be allowed under the homestead, small tract, desert land, or any other non-mineral public land laws unless the land has already been classified as valuable or suitable for such type of application or shall be so classified upon consideration of an application.

This order shall become effective immediately for the purpose of oil and gas leasing under the mineral-leasing laws.

This order shall not otherwise become effective to change the status of such lands until 10:00 a. m. on March 3, 1949. At that time the lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety-day period for preference-right filings.* For a period of 90 days from March 3, 1949, to June 2, 1949, inclusive, the public lands affected by this order shall be subject to (1) application under the homestead or the desert land laws, or the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U. S. C. sec. 682a), as amended, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. secs. 279–283), subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications by such veterans shall be subject to claims of the classes described in subdivision (2).

(b) *Twenty-day advance period for simultaneous preference-right filings.* For a period of 20 days from February 11, 1949, to March 2, 1949, inclusive, such veterans and persons claiming preference rights superior to those of such veterans, may present their applications, and all such applications, together with those presented at 10:00 a. m. on March 3, 1949, shall be treated as simultaneously filed.

(c) *Date for non-preference-right filings authorized by the public-land laws.* Commencing at 10:00 a. m. on June 3, 1949, any of the lands remaining unappropriated shall become subject to such application, petition, location, or selection by the public generally as may be authorized by the public-land laws.

(d) *Twenty-day advance period for simultaneous non-preference-right filings.* Applications by the general public may be presented during the 20-day period from May 14, 1949, to June 2, 1949, inclusive, and all such applications, together with those presented at 10:00 a. m. on June 3, 1949, shall be treated as simultaneously filed.

Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the District Land Office, Sacramento, California, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations (Circular No. 324, May 22, 1914, 43 L. D. 254), and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations and applications under the desert land laws and the Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the District Land Office, Sacramento, California.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

DECEMBER 30, 1948.

[F. R. Doc. 49-75; Filed, Jan. 5, 1949; 8:45 a. m.]

TITLE 45—PUBLIC WELFARE

Chapter VI—Office of Vocational Rehabilitation, Federal Security Agency

REDESIGNATION OF CHAPTER

EDITORIAL NOTE: Chapter VI—Office of Vocational Rehabilitation, Federal Security Agency, is redesignated Chapter IV, and Parts 600, 601, 602 and 606 are redesignated Parts 401, 402, 403 and 404, respectively.

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket Nos. 8977, 9022]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 3—RADIO BROADCAST SERVICES

PART 6—FIXED PUBLIC RADIO SERVICES

PART 7—COASTAL AND MARINE RELAY SERVICES

PART 8—SHIP SERVICE

PART 13—COMMERCIAL RADIO OPERATORS

MISCELLANEOUS AMENDMENTS

The following correction should be made in the Tuesday, December 21, 1948, issue of the FEDERAL REGISTER:

At page 8131, column 1, line 12: June 12, 1948, should read July 12, 1948.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-101; Filed, Jan. 5, 1949; 8:51 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE INTERIOR

Office of Indian Affairs

[25 CFR, Part 130]

WIND RIVER INDIAN IRRIGATION PROJECT, WYOMING

ORDER FIXING OPERATION AND MAINTENANCE CHARGES

Pursuant to section 4 (a) of the Administrative Procedure Act of June 11, 1946 (Public Law 404, 79th Congress) and authority contained in Acts of Congress approved August 1, 1914; May 18, 1916; March 7, 1928 (38 Stat. 583; 25 U. S. C. 385; 39 Stat. 1942; 45 Stat. 210; 25 U. S. C. 387) and by virtue of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs September 11, 1946 (11 F. R. 10279) and by virtue of authority delegated by the Commissioner of Indian Affairs to the Regional Director September 14, 1946, notice is hereby given of intention to modify § 130.95 of Title 25, Code of Federal Regulations, dealing with irrigable lands of the Wind River Indian Irrigation Project, to read as follows:

§ 130.95 *Charges.* In compliance with the provisions of the Act of August 1, 1914 (38 Stat. 583; 25 U. S. C. 385) the operation and maintenance charges for the lands under the Wind River Irrigation Project, Wyoming, for the calendar year 1949 and subsequent years until further notice, are hereby fixed at $2.00 per acre for the assessable area under constructed works on the Diminished Wind River Project and at $2.50 per acre on the Ceded Wind River Project; except in the case of all irrigable trust patent Indian land which lies within the Ceded Reservation and which is benefited by the Big Bend Drainage District where an additional assessment of .45 cents per acre is hereby fixed (38 Stat. 583; 45 Stat. 210; 25 U. S. C. 385, 387).

Interested persons are hereby given opportunity to participate in preparing the proposed amendments by submitting their views and data or arguments in writing to the Director, U. S. Indian Service, Billings, Montana, within 30 days from the date of the publication of this notice of intention in the daily issue of the FEDERAL REGISTER.

PAUL L. FICKINGER,
Regional Director,
Region No. 2, U. S. Indian Service.

[F. R. Doc. 49-76; Filed, Jan. 5, 1949; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 802]

1949 SUGAR QUOTAS FOR PUERTO RICO

NOTICE OF HEARINGS ON PROPOSED ALLOTMENT

Pursuant to the authority contained in the Sugar Act of 1948 (61 Stat. 922) and in accordance with the applicable rules of practice and procedure (12 F. R. 8225, 13 F. R. 127, 2063), and on the basis of information before me, I, Charles F. Brannan, Secretary of Agriculture, do hereby find that the allotment of the 1949 sugar quota for Puerto Rico for consumption in the continental United States, including the allotment of the direct consumption portion thereof, and the 1949 sugar quota for local consumption in Puerto Rico is necessary to prevent disorderly marketing and importation of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States and Puerto Rico, respectively, and hereby give notice that public hearings will be held at San Juan, Puerto Rico, in the auditorium of the School of Tropical Medicine on January 18 and 20, 1949, at 10:00 a. m.

The purpose of such hearings is to receive evidence to enable the Secretary of Agriculture to make a fair, efficient, and equitable distribution of the above mentioned quotas among persons (1) who bring Puerto Rican raw sugar into the continental United States or transfer such sugar for further processing and shipment to the continental United States as direct-consumption sugar, (2) who market sugar for local consumption in Puerto Rico and (3) who bring direct-consumption sugar into the continental United States for consumption therein. The hearing on January 18 will relate to the allotment of the 1949 sugar quota for consumption in Puerto Rico and the allotment of the 1949 sugar quota for Puerto Rico for shipment to and consumption in the continental United States. The hearing on January 20 will relate to the allotment of that portion of the 1949 sugar quota for Puerto Rico which may be brought into the continental United States as direct-consumption sugar.

The findings made above are in the nature of preliminary findings based on the best information now available. It will be appropriate at the hearings to present evidence on the basis of which the Secretary of Agriculture may affirm, modify, or change such preliminary findings and make or withhold allotment of any such quota or portion thereof in accordance therewith. In addition, the subjects and issues of this hearing also include (1) the manner in which the statutory factors of "processings from proportionate shares", "past marketings", and "ability to market", as provided in section 205 (a) of the said act, should be measured; (2) the relative weightings which should be given to these factors; and (3) the transfer or assignment of allotments.

Issued this 3d day of January 1949.

[SEAL] A. J. LOVELAND,
Acting Secretary of Agriculture.

[F. R. Doc. 49-89; Filed, Jan. 5, 1949; 8:50 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

SHORE SPACE RESTORATION NO. 407

OCTOBER 22, 1948.

By virtue of the authority contained in the act of June 5, 1920 (41 Stat. 1059, 48 U. S. C. 372), and in accordance with 43 CFR, § 4.275 (56) (Departmental Order No. 2325 of May 24, 1947, 12 F. R. 3566), and Order No. 319 of July 17, 1948 (43 CFR 50.451, 13 F. R. 4278), it is ordered as follows:

Subject to valid existing rights and the provisions of existing withdrawals, the 80-rod shore space reserve created under the act of May 14, 1898 (30 Stat. 409, 48 U. S. C. 371), is hereby revoked as to the following described lands:

T. 5 S., R. 15 W., Seward Meridian, Alaska.
Sec. 5: Lots 1 and 2.

The area described contains 100.45 acres.

LOWELL M. PUCKETT,
Regional Administrator.

[F. R. Doc. 49-73; Filed, Jan. 5, 1949; 8:45 a. m.]

FEDERAL DEPOSIT INSURANCE CORPORATION

INSURED STATE BANKS NOT MEMBERS OF FEDERAL RESERVE SYSTEM, EXCEPT BANKS IN DISTRICT OF COLUMBIA AND MUTUAL SAVINGS BANKS

RESOLUTION AUTHORIZING CALL FOR REPORT OF CONDITION AND ANNUAL REPORT OF EARNINGS AND DIVIDENDS

Pursuant to the provisions of paragraph (3) of subsection (k) of section 12B of the Federal Reserve Act, as amended, be it resolved that each insured State bank not a member of the

Federal Reserve System, except a bank in the District of Columbia and a mutual savings bank, be, and hereby is, required to submit to the Federal Deposit Insurance Corporation within ten days after receipt of notice of this resolution a report of its condition as of the close of business Friday, December 31, 1948, on Form 64 (Short form)—Call No. 30, and a report of earnings and dividends for the calendar year 1948, on Form 73. Said report of condition shall be prepared in accordance with, "Instructions for the Preparation of Report of Condition on Form 64 (Short form)," issued December 1946 and supplement of June 24, 1948; and said report of earnings and dividends shall be prepared in accordance with, "Instructions for the Preparation of Report of Earnings and Dividends on Form 73," issued December 1945, and supplements of December 26, 1946, and December 27, 1948.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
Secretary.

[F. R. Doc. 49-80; Filed, Jan. 5, 1949; 8:47 a. m.]

INSURED MUTUAL SAVINGS BANKS NOT MEMBERS OF THE FEDERAL RESERVE SYSTEM

RESOLUTION AUTHORIZING CALL FOR REPORT OF CONDITION AND ANNUAL REPORT OF EARNINGS AND DIVIDENDS

Pursuant to the provisions of paragraph (3) of subsection (k) of section 12B of the Federal Reserve Act, as amended, be it resolved that each insured mutual savings bank not a member of the Federal Reserve System be, and hereby is, required to submit to the Federal Deposit Insurance Corporation within ten days after receipt of notice of this resolution a report of its condition as of the close of business Friday, December 31, 1948, on Form 64 (Savings), and a report of earnings and dividends for the calendar year 1948, on Form 73 (Savings). Said report of condition and report of earnings and dividends shall be prepared in accordance with, "Instructions for the Preparation of Report of Condition on Form 64 (Savings) and Report of Earnings and Dividends on Form 73 (Savings)," issued December 1945.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
Secretary.

[F. R. Doc. 49-79; Filed, Jan. 5, 1949; 8:47 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1161]

TENNESSEE GAS TRANSMISSION CO.

ORDER SUSPENDING RATE SCHEDULE AND FIXING DATE OF HEARING

DECEMBER 30, 1948.

Tennessee Gas Transmission Company (Tennessee) filed with this Commission on November 30, 1948, changes to its FPC Gas Schedules designated "First Revised Sheets" Nos. 3, 6, 9, 31 and 33 to become effective on January 1, 1949. This proposed revision would have the effect of instituting specific ceilings on the obligations of Tennessee to supply its "entire requirement" customers served under its Rate Schedules G-1, G-2 and G-3.

Two customer companies of Tennessee, East Tennessee Natural Gas Company and Tennessee Natural Gas Lines, Inc., respectively, have objected to the proposed revisions. These customers are dependent upon Tennessee for their entire requirements of natural gas.

The Commission finds: It is necessary, desirable and in the public interest that the Commission enter upon a hearing concerning the lawfulness of the proposed revision of the FPC Schedules and that the said proposed revision of the schedules be suspended pending such hearing and decision thereon.

The Commission orders:

(A) A public hearing be held commencing January 31, 1949, at 2 o'clock p. m. (e. s. t.) in the Hearing Room of the Federal Power Commission, 1800 Pensylvania Avenue NW, Washington, D. C., concerning the lawfulness of the revisions provided for in First Revised Sheets Nos. 3, 6, 9, 31 and 33 FPC Gas Schedules of Tennessee Gas Transmission Company.

(B) Pending such hearing and decision thereon, First Revised Sheets referred to in paragraph (a) hereof, and submitted by Tennessee Gas Transmission Company, be and they hereby are suspended and use deferred until June 1, 1949, or until such time as said revised sheet may be effective in the manner prescribed by the Natural Gas Act.

(C) Interested State commissions may participate as provided by sections 8 and 1.37 (f) of the Commission's rules of practice and procedure.

Date of issuance: December 31, 1948.

By the Commission. Commissioner Draper dissenting.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 49-77; Filed, Jan. 5, 1949; 8:45 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 12478]

ADAM KRANER

In re: Estate of Adam Kraner, deceased. File No. D-28-12489; E. T. sec. 16698.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Margaret (Kammer) Kammerer and Rose Kuhn, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the estate of Adam Kraner, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by Helen Wolfanger, as Administratrix C. T. A., acting under the judicial supervision of the Surrogate's Court, Livingston County, New York;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 3, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-92; Filed, Jan. 5, 1949; 8:51 a. m.]

[Vesting Order 12433]

FRANCES MATTICK

In re: Estate of Frances Mattick, deceased. File No. D-28-9486; E. T. sec. 12814.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Margaretha Mattick, Leonhard Mattick, Christina Mattick, Peter Mattick, and Margaretha Wachtler, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the domiciliary personal representatives, heirs, next of kin, legatees and distributees of Margaretha Mattick, and the domiciliary personal representatives, heirs, next of kin, legatees and distributees of Christina Mattick, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatso-

ever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Frances Mattick, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country, (Germany);

4. That such property is in the process of administration by Frank Pelitsch, as Executor, acting under the judicial supervision of the Surrogate's Court, Kings County, New York;

and it is hereby determined:

5. That to the extent that the persons identified in subparagraph 1 hereof and the domiciliary personal representatives, heirs, next of kin, legatees and distributees of Margaretha Mattick, and the domiciliary personal representatives, heirs, next of kin, legatees and distributees of Christina Mattick, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country, (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 3, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-93; Filed, Jan. 5, 1949; 8:51 a. m.]

[Vesting Order 12516]

PETER KUEHNLING

In re: Trust under will of Peter Kuehnling, deceased. File F 28-11775 G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Henry (Heinrich) Kuehnling, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the issue, names unknown, of Henry (Heinrich) Kuehnling, and the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Katharina (Kattchen) Kuehnling, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the trust established under the will of Peter Kuehnling, deceased, presently being administered by the Mercantile Trust Company of Baltimore, Calvert & Redwood Sts., Baltimore 3, Maryland, Trustee,

is property within the United States owned or controled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof and the issue, names unknown, of Henry (Heinrich) Kuehnling, and the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Katharina (Kattchen) Kuehnling, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-94: Filed, Jan. 5, 1949; 8:51 a. m.]

[Vesting Order 12518]

CLARA A. W. PETERS

In re: Trust for nieces and nephews of Clara A. W. Peters. F-28-23654 G-1, Docket No. 2019.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1 That Arthur Drefahl, Karl Drefahl, Ursula Lowmann, Ingelore Drefahl, August Drefahl, Hans Drefahl, Grete Drefahl, Traute Drefahl, Herta Bottger and Gretchen Gaul, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That Walther Kindt, the nieces and nephews of Clara A. W. Peters, deceased, and their issue names unknown, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That the property described as follows: That certain debt or other obligation of the Savings Institution of Sandy Spring, Md., Sandy Spring, Maryland, arising out of savings account, Account No. 10246, entitled "Harold B. Stabler & Frances S. Bartram, Trustees for the nephews and nieces of Clara A. W. Peters," maintained with the aforesaid Savings Institution, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof, Walther Kindt and the nieces and nephews of Clara A. W. Peters, deceased, and their issue names unknown, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-95; Filed, Jan. 5, 1949; 8:51 a. m.]

[Vesting Order 12575]

ERICH HESSE AND META HESSE

In re: Debt owing to Erich Hesse and Meta Hesse. F-28-29271-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Erich Hesse and Meta Hesse, each of whose last known address is c/o Deutsche Bank Filiale Essen, Essen, Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation represented by Claim No. 5185 against the insolvent Inland Irving National Bank, Chicago, Illinois, and a check drawn by the Comptroller of the Currency on the Continental Illinois National Bank and Trust Company, Chicago, Illinois, payable to Erich Hesse and

Meta Hesse, dated September 24, 1941, numbered P-366,949 in the amount of $74.46, representing the sixth (final) dividend on the aforesaid claim and presently in the custody of the Division of Insolvent National Banks, Office of the Comptroller of the Currency, Treasury Department, Washington, D. C., and any and all rights to demand, enforce and collect the aforesaid debt or other obligation and any all rights in, to and under, including particularly, but not limited to, the right to possession and presentation for collection and payment of the aforesaid check,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 20, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-96; Filed, Jan. 5, 1949; 8:51 a. m.]

[Vesting Order 10736, Amdt.]

DORIS BAHNSEN

In re: Stock and bonds owned by and debt owing to Doris Bahnsen.

Vesting Order 10736, dated February 24, 1948, is hereby amended as follows and not otherwise:

a. By inserting in Exhibit A, attached to and by reference made a part of the aforesaid Vesting Order 10736, opposite the bonds numbered 1852B, 71498J, 71497H and 71496F, the words "United States Treasury 2% (1953)".

All other provisions of said Vesting Order 10736 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hefeby ratified and confirmed.

Executed at Washington, D. C., on December 20, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-97; Filed, Jan. 5, 1949; 8:51 a. m.]

[Vesting Order 12094, Amdt.]

MARIE A. THEIS

In re: Bank account, bonds, stock and other securities owned by Marie A. Theis, also known as Maria A. Theis.

Vesting Order 12094, dated September 24, 1948, is hereby amended as follows and not otherwise:

a. By deleting from subparagraph 2 (c) of the aforesaid Vesting Order 12094, the words "registered in the name of Miss Marie A. Theis, 34 Groverstr., 20 Rodenberg, Germany" and substituting therefor the words "in bearer form", and

b. By adding to the aforesaid Vesting Order 12094 after subparagraph 2 (j) a new paragraph numbered 2 (k) and reading as follows:

(k) One (1) Participating certificate numbered 694 representing one-tenth (1/10th) share of capital stock of the Style Center Building Corporation, said certificate registered in the name of Miss Marie Theis, together with any and all rights thereunder and thereto.

All other provisions of said Vesting Order 12094 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on December 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-98; Filed, Jan. 5, 1949; 8:51 a. m.]

[Return Order 223]

MARIA CLEMENTINA FENOALTEA

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant and Claim No., Notice of Intention To Return Published, and Property

Maria Clementina Fenoaltea, a/k/a Tina Fenoaltea, Rome, Italy, Claim No. 6535, November 5, 1948 (13 F. R. 6545); $5,000.00 in the Treasury of the United States.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on December 31, 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-83; Filed, Jan. 5, 1949; 8:51 a. m.]

KENZO NAKATSUKA

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property and Location

Kenzo Nakatsuka, 4835, 100 shares of Pacific Trading Company (California) $20.00 par value capital stock registered in the name of the Alien Property Custodian, Washington, D. C., presently in custody of the safe keeping department of the Federal Reserve Bank of New York.

Executed at Washington, D. C., on December 31, 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-100; Filed, Jan. 5, 1949; 8:51 a. m.]